



Maryland Register

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before March 5, 2012, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of March 5, 2012.

Brian Morris
Acting Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

The Maryland Register is an official State publication published every other week throughout the year. A cumulative index is published quarterly.

The Maryland Register is the temporary supplement to the Code of Maryland Regulations. Any change to the text of regulations published in COMAR, whether by adoption, amendment, repeal, or emergency action, must first be published in the Register.

The following information is also published regularly in the Register:

- Governor's Executive Orders
- Attorney General's Opinions in full text
- Open Meetings Compliance Board Opinions in full text
- State Ethics Commission Opinions in full text
- Court Rules
- District Court Administrative Memoranda
- Courts of Appeal Hearing Calendars
- Agency Hearing and Meeting Notices
- Synopses of Bills Introduced and Enacted by the General Assembly
- Other documents considered to be in the public interest

CITATION TO THE MARYLAND REGISTER

The Maryland Register is cited by volume, issue, page number, and date. Example:

- 19:8 Md. R. 815—817 (April 17, 1992) refers to Volume 19, Issue 8, pages 815—817 of the Maryland Register issued on April 17, 1992.

CODE OF MARYLAND REGULATIONS (COMAR)

COMAR is the official compilation of all regulations issued by agencies of the State of Maryland. The Maryland Register is COMAR's temporary supplement, printing all changes to regulations as soon as they occur. At least once annually, the changes to regulations printed in the Maryland Register are incorporated into COMAR by means of permanent supplements.

CITATION TO COMAR REGULATIONS

COMAR regulations are cited by title number, subtitle number, chapter number, and regulation number. Example: COMAR 10.08.01.03 refers to Title 10, Subtitle 08, Chapter 01, Regulation 03.

DOCUMENTS INCORPORATED BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COMAR simply by referring to it. While the text of an incorporated document does not appear in COMAR, the provisions of the incorporated document are as fully enforceable as any other COMAR regulation. Each regulation that proposes to incorporate a document is identified in the Maryland Register by an Editor's Note. The Cumulative Table of COMAR Regulations Adopted, Amended or Repealed, found online, also identifies each regulation incorporating a document. Documents incorporated by reference are available for inspection in various depository libraries located throughout the State and at the Division of State Documents. These depositories are listed in the first issue of the Maryland Register published each year. For further information, call 410-974-2486.

HOW TO RESEARCH REGULATIONS

An Administrative History at the end of every COMAR chapter gives information about past changes to regulations. To determine if there have been any subsequent changes, check the "Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed" which is found online at www.dsd.state.md.us/CumulativeIndex.pdf. This table lists the regulations in numerical order, by their COMAR number, followed by the citation to the Maryland Register in which the change occurred. The Maryland Register serves as a temporary supplement to COMAR, and the two publications must always be used together. A Research Guide for Maryland Regulations is available. For further information, call 410-260-3876.

SUBSCRIPTION INFORMATION

For subscription forms for the Maryland Register and COMAR, see the back pages of the Maryland Register. Single issues of the Maryland Register are \$15.00 per issue.

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

Maryland citizens and other interested persons may participate in the process by which administrative regulations are adopted, amended, or repealed, and may also initiate the process by which the validity and applicability of regulations is determined. Listed below are some of the ways in which citizens may participate (references are to State Government Article (SG), Annotated Code of Maryland):

- By submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see "Opportunity for Public Comment" at the beginning of all regulations appearing in the Proposed Action on Regulations section of the Maryland Register). (See SG, §10-112)
- By petitioning an agency to adopt, amend, or repeal regulations. The agency must respond to the petition. (See SG §10-123)
- By petitioning an agency to issue a declaratory ruling with respect to how any regulation, order, or statute enforced by the agency applies. (SG, Title 10, Subtitle 3)
- By petitioning the circuit court for a declaratory judgment on the validity of a regulation when it appears that the regulation interferes with or impairs the legal rights or privileges of the petitioner. (SG, §10-125)
- By inspecting a certified copy of any document filed with the Division of State Documents for publication in the Maryland Register. (See SG, §7-213)

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Martin O'Malley, Governor; **John P. McDonough**, Secretary of State; **Brian Morris**, Acting Administrator; **Gail S. Klakring**, Senior Editor; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title "Maryland Documents". This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. "Maryland Documents" also includes local publications.

Anyone wishing to receive "Maryland Documents" should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

CLOSING DATES AND ISSUE DATES through JULY 27, 2012

Issue Date	Emergency and Proposed Regulations 5:00 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
April 6	March 19	March 28	March 26
April 20	April 2	April 11	April 9
May 4	April 16	April 25	April 23
May 18	April 30	May 9	May 7
June 1**	May 14	May 21	May 18
June 15**	May 24	June 6	June 4
June 29	June 11	June 20	June 18
July 13**	June 25	July 3	July 2
July 27	July 9	July 18	July 16

* Due date for documents containing 8 to 18 pages — 48 hours before date shown

** Due date for documents exceeding 18 pages — 1 week before date shown

NOTE: ALL DOCUMENTS MUST BE SUBMITTED IN TIMES NEW ROMAN, 9-POINT, SINGLE-SPACED FORMAT. THE REVISED PAGE COUNT REFLECTS THIS FORMATTING.

** Note closing date changes

The regular closing date for Proposals and Emergencies is Monday.

COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.sos.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

REGULATIONS CODIFICATION SYSTEM

Under the COMAR codification system, every regulation is assigned a unique four-part codification number by which it may be identified. All regulations found in COMAR are arranged by title. Each title is divided into numbered subtitles, each subtitle is divided into numbered chapters, and each chapter into numbered regulations.

09.12.01.01D(2)(c)(iii)
 Title Subtitle Chapter Regulation Subsection Paragraph Subparagraph

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

This table, previously printed in the Maryland Register lists the regulations, by COMAR title, that have been adopted, amended, or repealed in the Maryland Register since the regulations were originally published or last supplemented in the Code of Maryland Regulations (COMAR). The table is no longer printed here but may be found on the Division of State Documents website at www.dsd.state.md.us.

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata pertaining to proposed regulations are listed, followed by "(err)". Regulations referencing a document incorporated by reference are followed by "(ibr)". None of the proposals listed in this table have been adopted. A list of adopted proposals appears in the Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed.

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11 DEPARTMENT OF TRANSPORTATION

11.12.09.01, 02, 04—07 • 39:2 Md. R. 207 (1-27-12)

**12 DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES**

12.02.24.02 • 39:5 Md. R. 387 (3-9-12)
12.04.01.04—12, 14—21 • 38:21 Md. R. 1297 (10-7-11)
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12.04.06.01—18 • 38:21 Md. R. 1297 (10-7-11)
12.12.30.02—09, 12, 13, 15—27, 30—37,
.39 • 38:24 Md. R. 1518 (11-18-11)
38:27 Md. R. 1786 (12-30-11) (err)

13A STATE BOARD OF EDUCATION

13A.01.05.02 • 39:2 Md. R. 209 (1-27-12)
13A.05.09.02 • 38:23 Md. R. 1459 (11-4-11)
13A.12.02.06—11, 14, 15, 17, 28 • 39:2 Md. R. 210 (1-27-12)
13A.14.06.02, 03, 09 • 39:2 Md. R. 212 (1-27-12)

13B MARYLAND HIGHER EDUCATION COMMISSION

14 INDEPENDENT AGENCIES

14.01.01.02 • 39:3 Md. R. 298 (2-10-12)
14.01.10.19 • 39:6 Md. R. 446 (3-23-12)
14.01.13.03 • 39:3 Md. R. 298 (2-10-12)
14.01.14.17, 47 • 39:3 Md. R. 298 (2-10-12)
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14.09.03.01, 04, 09 • 38:23 Md. R. 1462 (11-4-11)
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20 PUBLIC SERVICE COMMISSION

20.50.01.03 • 39:4 Md. R. 341 (2-24-12)
20.50.02.02, 04 • 39:4 Md. R. 341 (2-24-12) (ibr)
20.50.07.05—07 • 39:4 Md. R. 341 (2-24-12)
20.50.12.01—14 • 39:4 Md. R. 341 (2-24-12)

21 STATE PROCUREMENT REGULATIONS

21.11.12.01—09 • 38:20 Md. R. 1249 (9-23-11)

**24 DEPARTMENT OF BUSINESS AND ECONOMIC
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24.05.03.01—15 • 39:6 Md. R. 448 (3-23-12)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 08—12 (Part 2)

26.09.01.02 • 39:2 Md. R. 215 (1-27-12)
26.09.02.05—09 • 39:2 Md. R. 215 (1-27-12)
26.09.04.03, 05 • 39:2 Md. R. 215 (1-27-12)

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26.11.02.13 • 39:2 Md. R. 218 (1-27-12)
26.11.19.23 • 38:25 Md. R. 1659 (12-2-11)
26.16.01.02, 03, 11 • 38:27 Md. R. 1783 (12-30-11)
26.16.02.03, 07 • 38:27 Md. R. 1783 (12-30-11)
26.16.05.08 • 38:27 Md. R. 1783 (12-30-11)

**27 CRITICAL AREA COMMISSION FOR THE
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

27.01.10.01 • 39:6 Md. R. 459 (3-23-12)
27.01.11.01—,07 • 39:6 Md. R. 459 (3-23-12)
27.01.12.01 • 39:6 Md. R. 459 (3-23-12)

31 MARYLAND INSURANCE ADMINISTRATION

31.10.01.01—,03 • 38:24 Md. R. 1548 (11-18-11)
31.10.18.02—,15 • 39:2 Md. R. 219 (1-27-12)
31.10.19.01,,02,,04,,06,,07 • 39:2 Md. R. 221 (1-27-12)
31.10.29.02,,03 • 39:2 Md. R. 222 (1-27-12)
31.12.08.04 • 38:17 Md. R. 1039 (8-12-11)
31.12.08.04,,06 • 39:2 Md. R. 223 (1-27-12)

33 STATE BOARD OF ELECTIONS

33.13.11.01—,04 • 38:26 Md. R. 1746 (12-16-11)

34 DEPARTMENT OF PLANNING

34.04.09.08 • 38:25 Md. R. 1669 (12-2-11)



The Governor

EXECUTIVE ORDER 01.01.2012.03

State Law Enforcement Coordinating Council

WHEREAS, Crime in Maryland is at its lowest level since 1975 when the FBI began modern crime tracking, yet violent crime and inter-jurisdictional criminal enterprises involving gangs, drug smuggling, and guns continue to threaten the safety and welfare of all citizens of Maryland;

WHEREAS, Maryland has taken great strides to protect and secure its citizens and critical infrastructure, yet the threat to the security of our homeland from terrorists attacks remains high;

WHEREAS, We must continue to reduce crime across the State and protect our homeland by the most efficient use of all of the State's law enforcement resources available to support their operations and crime-fighting efforts; and

WHEREAS, State law enforcement agencies must strive to eliminate redundancies among their operations and administrations in order to achieve greater efficiencies in the use of State resources and the inevitable benefits flowing from the forging of closer working relationships among all State law enforcement agencies.

NOW THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND THE LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Established. There is a State Law Enforcement Coordinating Council (Council).

B. Membership.

(1) The Council shall include the following State law enforcement agencies (member agencies):

- (a) State Police;
- (b) The Maryland Transportation Authority Police;
- (c) Mass Transit Administration Police;
- (d) The Natural Resources Police;
- (e) University of Maryland Department of Public Safety, and all police departments of the constituent institutions of the University System of Maryland listed in Section 12-101(b)(5) of the Education Article of the Annotated Code of Maryland;
- (f) The Morgan State University Police Force; and
- (g) Maryland Capitol Police.

(2) The Secretary of State Police will serve as the Chair of the Council.

(3) The Council Chair shall select two chiefs from the member agencies who shall serve as Deputy Chairs for an appointment period not to exceed one year.

(4) The Executive Committee will be comprised of the Chair and Deputy Chairs of the Council.

(5) The Membership of the Council may be expanded to include other State law enforcement agencies by the unanimous decision of the Executive Committee.

(6) The Advisory Group to the Council shall include, but is not limited to designated representatives from the:

- (a) Governor's Office of Crime Control and Prevention;
- (b) Maryland Highway Safety Office;
- (c) Maryland Police Training Commission;

- (d) Maryland Emergency Management Agency; and
- (e) Governor's Office of Homeland Security.

C. Procedures.

(1) Council meetings shall be attended by designated representatives of each member agency and shall be held on a quarterly basis or as necessary.

(2) The Council shall adopt written policies and procedures to implement the provisions of this Executive Order, including policies and procedures to ensure the safe, efficient, and cooperative provision of law enforcement services in instances in which a member agency of the Council is operating with expanded jurisdiction as provided for in subsection E(1) of this Executive Order.

(3) As provided in subsection C(5), the Executive Committee shall approve actions of the Council under circumstances where coordination of State law enforcement agencies will serve to protect the public safety. Council coordinated activity may include, but is not limited to, responding to crime trends of a statewide, regional or local nature by targeted enforcement or investigative activity, investigating specific criminal activity within the State, maintaining homeland security, responding to emergencies either natural or manmade, or undertaking such actions as may help to enhance the safety of the roadways or any mode of travel on public transportation.

(4) The Executive Committee shall also decide which member agencies shall participate in each action, based upon the resources a particular member agency has available to participate, the location of the action and the particular expertise that the member agency has available to contribute to the action.

(5) All planned law enforcement actions of the Council shall be approved by a unanimous decision of the Executive Committee. An Executive Committee member who is not available to participate in any decision of the Committee shall designate a representative from within his or her agency. The scope and aims of each Council action shall be described in writing before it is carried out. The outcome shall be documented within a reasonable time following completion of the action. Any action for which the Executive Committee, because of an emergency or other time-sensitive situation, does not have time to prepare and approve a written document detailing the scope and aims in advance shall be approved upon the verbal authorization of a majority of the Executive Committee. The scope, aims, and outcome of the Council action shall be documented as soon thereafter as reasonably possible.

(6) On September 1 of each year, the Council shall submit a summary report to the Governor concerning all actions taken under this Executive Order for the previous fiscal year ending June 30, including the member agency participants and the location of each action.

D. Duties.

(1) The Council has the authority and responsibility to coordinate among its member agencies to further the safety and security of the people of Maryland and to improve the administration and enforcement of the laws of Maryland by ensuring that police resources are deployed across the State to address state-wide crime trends, regional and local crime, maintain homeland security, respond to any threats to homeland security, and to address emergencies either natural or man-made.

(2) The Council will explore opportunities for its member agencies to work collaboratively with local law enforcement agencies and seek to foster enhanced communications and working relations among all law enforcement agencies in the State to achieve a safer Maryland.

(3) The Council will seek efficiencies in administrative functions among its member agencies, including but not limited to the following:

- (a) Training;
- (b) Information Technology;
- (c) Communications;
- (d) Procurement;
- (e) Campus Security;
- (f) Homeland Security; and
- (g) Development and implementation of emergency

planning.

E. Jurisdiction.

(1) Member agencies may exercise all the authority of a police officer of the Department of State Police as provided in Section 2-412 of the Public Safety Article when carrying out any action approved by the Council as provided for in this Executive Order and as authorized by:

- (a) Section 7-207(b)(iii) of the Transportation Article for the Maryland Transit Administration Police;
- (b) Section 4-208(b)(4)(iii) of the Transportation Article for the Maryland Transportation Authority Police;
- (c) Section 13-601(b)(2)(iv) of the Education Article for the University of Maryland Police and the police departments of the constituent institutions of the University System of Maryland listed in Section 12-101(b)(5) of the Education Article; and
- (d) Section 14-106(b)(2)(iii) for the Morgan State University Police Force.

(2) A police officer of the Natural Resources Police shall have the full authority of a police officer of the State as provided in Section 1-204(a) of the Natural Resources Article, including the authority to enforce traffic laws when carrying out any action approved by the Council as provided for in this Executive Order.

(3) A police officer of the Maryland Capitol Police as defined by Section 4-605(c) of the State Finance and Procurement Article shall have the full authority of a police officer to enforce the criminal laws of the State as provided by Section 2-102 of the Criminal Procedure Article when carrying out any action approved by the Council as provided for in this Executive Order.

(4) No provision of this Executive Order is intended to compromise or limit any of the powers, protections, or immunities otherwise granted by law to member agencies or other law enforcement agencies within Maryland.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 29th day of February, 2012.

MARTIN O'MALLEY
Governor

ATTEST:

JOHN P. MCDONOUGH
Secretary of State

[12-06-36]

The General Assembly

For additional up-to-date information concerning bills introduced in the General Assembly, log on to <http://mlis.state.md.us> Click on Bill Information and Status. You may then enter a specific bill number for information about that bill. You may also click on Senate Synopsis or House Synopsis for the most recent synopsis list for each house, or click on Synopsis Index for a listing of all bill synopses since the beginning of the legislative session.

SYNOPSIS NO. 5

House Bills

- HB1398** Del Impallaria, et al. Harford County - Slot Machines - Ownership and Operation by Eligible War Veterans' Organizations.
- HB1399** Dels Smigiel and Hammen. Hospitals - Credentialing and Privileging Process - Telemedicine.
- HB1400** Dels Smigiel and Hammen. State Board of Physicians - Exceptions from Licensing - Physicians Authorized to Practice Medicine by Another State.
- HB1401** Del Oaks, et al. State Department of Education - Oral Health Education - Certification and Monitoring.
- HB1402** Del Tarrant, et al. Child Support - Contempt Orders - Veterans and Service Members.
- HB1403** Dels Walker and Valderrama. Creation of a State Debt - Prince George's County - Friendly High School Gymnasium.
- HB1404** Dels Walker and Valderrama. Creation of a State Debt - Prince George's County - Southern Area Indoor Aquatic Center.
- HB1405** Del Clippinger. Criminal Law - Motor Vehicles - Criminal Negligence Resulting in Death.
- HB1406** Dels Walker and Valderrama. Creation of a State Debt - Prince George's County - Harbor Light Community Development Center.
- HB1407** Del Walker. Department of Health and Mental Hygiene - Workgroup on Cancer Clusters and Environmental Causes of Cancer.
- HB1408** Del Boteler, et al. Education - Religious Bills of Rights - Individuals Connected to Public Schools.
- HB1409** Dels Clagett and Schulz. Motor Vehicles - Registration Plates - "Home of Our National Anthem".
- HB1410** Del Hucker. Clean Energy Loan Programs - Private Lenders - Collection of Loan Payments.
- HB1411** Del George, et al. Environment - Water Management Administration - Wetlands and Waterways Program Fees.
- HB1412** Del Bohanan, et al. Education - Maintenance of Effort.
- HB1413** Dels Eckardt and Frank. Operating Budget - Budget Reconciliation - Requirement for Separate Bills.
- HB1414** Del McHale, et al. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Port Discovery.
- HB1415** Dels Cane and Conway. Creation of a State Debt - Dorchester County - Chesapeake Grove Senior Housing and Intergenerational Center.
- HB1416** Del B. Robinson, et al. Creation of a State Debt - Baltimore City - Coppin Heights Urban Revitalization Project - Phase I.
- HB1417** Del Vaughn. Creation of a State Debt - Prince George's County - Street Lighting Enhancements.
- HB1418** Del Anderson, et al. Criminal Procedure - Coram Nobis - Failure to Seek Appeal.
- HB1419** Chr ENV (Dept). Natural Resources - Hunting Licenses and Stamps.
- HB1420** Del Luedtke, et al. Maryland Consolidated Capital Bond Loan of 2010 - Montgomery County - Sandy Spring Museum.
- HB1421** Del Smigiel, et al. Health - Youth Camps - Application Fees for Certification.
- HB1422** Del McDermott, et al. Law Enforcement Officers - Separation from Service - Retirement Credentials.
- HB1423** Del Conway, et al. Local Government - Fire, Rescue, and Ambulance Funds - Distribution of Money to Volunteer Companies.
- HB1424** Dels Conway and McDermott. Ocean City Convention Center - Financial Obligations and Taxing Authority.
- HB1425** Del McDermott. Motor Vehicle Registration - Special Vintage Reproduction License Plate.
- HB1426** Dels Jameson and Minnick. Workers' Compensation Commission - Jurisdiction Over Claims on Appeal - Limitation.
- HB1427** Dels Jameson and Schuh. Electricity - Certificate of Public Convenience and Necessity - Overhead Transmission Lines.
- HB1428** Del Barnes (By Request), et al. Juvenile Court - Jurisdiction - Robbery.
- HB1429** Del Lee, et al. State Government - Statue of Harriet Tubman.
- HB1430** Del Niemann. Creation of a State Debt - Prince George's County - Battle of Bladensburg Visitor Center and Monument.
- HB1431** Del O'Donnell, et al. Calvert, Charles, and St. Mary's Counties - Turkey Hunting on Private Property - Sundays.
- HB1432** Del Barkley. Alcoholic Beverages - Comptroller - Departments of Liquor Control and Liquor Control Boards.
- HB1433** Del Zucker, et al. Maryland Consolidated Capital Bond Loan of 2011 - Montgomery County - Olney Theatre.
- HB1434** Del Reznik. Health Insurance - Coverage for Autism Spectrum Disorders.
- HB1435** Dels Stukes and Mitchell. Maryland Veterans Commission - Membership - Revision.
- HB1436** Dels Conway and McDermott. Worcester County - Alcoholic Beverages - Beer and Wine Festivals.
- HB1437** Del Clagett. State Operating Budget - State Prescription Drug Program Subsidy - Lump Sum Payment.
- HB1438** Del Clagett. City of Frederick - Criminal History Records Check - Taxi Driver and Tow Truck Driver Applicants.
- HB1439** Del James, et al. Operating Budget - Capital Gains Tax Revenue - Appropriation to Revenue Stabilization Account.
- HB1440** Del Griffith. Maryland Consolidated Capital Bond Loan of 2010 - Prince George's County - Walker Mill Daycare and Training Center.
- HB1441** Dels Stocksdales and Ready. Family Law - Termination of Alimony - Cohabitation of Recipient.
- HB1442** Del Stein. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore County - HopeWell Cancer Support.
- HB1443** Del Stein. Renewable Energy Portfolio Standard - Qualifying Thermal Biomass Systems.
- HB1444** Del Valderrama, et al. Alcoholic Beverages Sales - Prohibition on Use of Self-Scanning Cash Registers.
- HB1445** Del Stifler. Plumbing and Heating, Ventilation, Air-Conditioning, and Refrigeration Employees - Public Work Contracts - License Requirement and Employee Classification.
- HB1446** Dels Otto and McDermott. Somerset and Worcester Counties - Deer Hunting on Private Property - Sundays.
- HB1447** Dels Myers and Beitzel. Education - School Attendance in Another County.
- HB1448** Queen Anne's County Delegation. Queen Anne's County - Deer Hunting on Private Property - Sundays.
- HB1449** Del Clippinger, et al. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Renovation of Southeast Neighborhood Development Center.
- HB1450** Dels Mitchell and Ivey. Public Schools - Provision of Supplemental Educational Services.
- HB1451** Del Glenn. Creation of a State Debt - Baltimore City - Community Resource Center.

HB1452 Del Haynes. Creation of a State Debt - Baltimore City - Garrett-Jacobs Mansion.

HB1453 Del Jameson. Public Safety - Impersonating an Officer of the Washington Metropolitan Area Transit Authority Metro Transit Police - Prohibited.

HB1454 Balt City Deleg and Del Oaks. Creation of a State Debt - Baltimore City - Park Heights Sports Complex.

HB1455 Dels Costa and Hubbard. Mortality and Quality Review Committee - Reporting Requirements - Sunset Extension.

HB1456 Del Mizeur. Income Tax - Tax Credits - Electronic Filing Requirements.

HB1457 Charles County Delegation. Charles County - Correctional Officers' Bill of Rights Act.

HB1458 Del Bohanan. Creation of a State Debt - Maryland Alliance of Boys and Girls Clubs - Renovations.

HB1459 Dels Harrison and Conway. Creation of a State Debt - Baltimore City - East Baltimore Historical Library.

HB1460 Del Conway, et al. Court Costs - Criminal Cases - Funding for Law Enforcement.

HB1461 Del Beitzel. Maryland Consolidated Capital Bond Loan of 2010 - Garrett County - Oakland B&O Railroad Museum.

[12-06-43]

Senate Bills

SB1047 Sen Peters. Maryland Consolidated Capital Bond Loan of 2010 - Prince George's County - Marlboro Meadows Senior Center.

SB1048 Sen Colburn. Creation of a State Debt - Dorchester County - Chesapeake Grove Senior Housing and Intergenerational Center.

SB1049 Sen Ferguson. Creation of a State Debt - Baltimore City - Brooks Robinson Statue - Babe Ruth Birthplace Foundation.

SB1050 Sen Ferguson. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Port Discovery.

SB1051 Sen Kasemeyer. Maryland Consolidated Capital Bond Loan of 2010 - Howard County - Symphony Woods Park.

SB1052 Sen McFadden. Creation of a State Debt - Baltimore City - Community Resource Center.

SB1053 Sen Klausmeier. Financial Institutions - Credit Unions and Depository Institutions - Authority to Conduct Savings Promotion Raffles.

SB1054 Sen Mathias. Vehicle Laws - Automotive Dismantlers and Recyclers or Scrap Processors - Disposal of Vehicles.

SB1055 Sens Zirklin and Stone. Court Costs - Criminal Cases - Funding for Law Enforcement.

SB1056 Sen DeGrange. Creation of a State Debt - Anne Arundel County - Meade High School Concession Stand.

SB1057 Sen Astle. Creation of a State Debt - Cecil County - Milburn Stone Theatre.

SB1058 Sen Astle. Creation of a State Debt - Cecil County - Jacob Tome Gas House.

SB1059 Sen Conway. Alcoholic Beverages - Comptroller - Departments of Liquor Control and Liquor Control Boards.

SB1060 Sen Kasemeyer. Creation of a State Debt - Baltimore County - Lighthouse Youth and Family Services Center.

SB1061 Sen Pipkin. Office of Legislative Audits - Managing for Results Audits of Department of Transportation Modal Administrations.

SB1062 Sen Pipkin. Transportation - Rail Projects - Farebox Recovery Requirement.

SB1063 Sen Kittleman. Workers' Compensation Commission - Jurisdiction Over Claims on Appeal - Limitation.

SB1064 Sen Pipkin. Transportation - Washington Metropolitan Area Transit Authority - Revenue Contributions by Montgomery County and Prince George's County.

SB1065 Sen Pipkin. Procurement - Board of Contract Approval - Establishment.

SB1066 Sen Kasemeyer. Income Tax - Film Production Credit - Extension and Increase.

SB1067 Sen Pugh. Maryland Consolidated Capital Bond Loan of 2011 - Baltimore City - Morgan Mill Facility.

SB1068 Sen Ramirez. Maryland Consolidated Capital Bond Loan of 2011 - Prince George's County - Battle of Bladensburg Visitor Center and Monument.

SB1069 Sen Pugh. State Government - Statue of Harriet Tubman.

SB1070 Sen Edwards. Creation of a State Debt - Washington County - Lockhouse 44, Lock 44, and Western Maryland Railroad Lift Bridge.

SB1071 Sen Edwards. Maryland Consolidated Capital Bond Loan of 2010 - Garrett County - Oakland B&O Railroad Museum.

SB1072 Sen Currie. Maryland Consolidated Capital Bond Loan of 2010 - Prince George's County - Walker Mill Daycare and Training Center.

SB1073 Sen Middleton. Electricity - Certificate of Public Convenience and Necessity - Overhead Transmission Lines.

SB1074 Sen Colburn. Critical Area Commission - Planting Credits - Warm Season Grass.

SB1075 Sen Mathias. Worcester County - Alcoholic Beverages - Beer and Wine Festivals.

SB1076 Sen McFadden. Maryland Veterans Commission - Membership - Revision.

SB1077 Sen Middleton. Mortality and Quality Review Committee - Reporting Requirements - Sunset Extension.

SB1078 Sen Dyson. Election Law - Absentee Ballots - Internet or Facsimile Transmission.

SB1079 Sen Young. Department of Health and Mental Hygiene - Facilities Capital Program - State's Right of Recovery.

SB1080 Sen Young, et al. Religious Corporations - Laws Governing Assets of United Methodist Church - Repeal.

SB1081 Sen Klausmeier. Health Insurance - Coverage for Autism Spectrum Disorders.

SB1082 Sen Forehand. Children in Need of Assistance - Sexual Abuse - Definition.

SB1083 Sen Ferguson. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Southeast Neighborhood Development Fund.

SB1084 Sen Ferguson. Maryland Consolidated Capital Bond Loan of 2010 - Baltimore City - Renovation of Southeast Neighborhood Development Center.

SB1085 Sen Montgomery. Maryland Consolidated Capital Bond Loan of 2011 - Montgomery County - Olney Theatre.

SB1086 Sen Jones-Rodwell, et al. Income Tax - Tax Credits - Electronic Filing Requirements.

SB1087 Sen Mathias, et al. Local Government - Fire, Rescue, and Ambulance Funds - Distribution of Money to Volunteer Companies.

SB1088 Sen McFadden. Creation of a State Debt - Baltimore City - East Baltimore Historical Library.

SB1089 Sens Pipkin and Manno. General Assembly - Reduction in Budget Appropriations for Repeat Legislative Audit Findings.

SB1090 Sen Pugh. Public Schools - Provision of Supplemental Educational Services.

SB1091 Sen Gladden. Creation of a State Debt - Baltimore City - Park Heights Sports Complex.

SB1092 Sen Peters. Maryland Consolidated Capital Bond Loan of 2010 - Prince George's County - Marleigh Community Safety and Surveillance System.

[12-06-44]

Chapters

CH0002 HB0438 (Amended) The Speaker (Administration), et al. Civil Marriage Protection Act.

[12-06-45]

Emergency Action on Regulations

Symbol Key

- Roman type indicates text existing before emergency status was granted.
- *Italic type* indicates new text.
- [Single brackets] indicate deleted text.

Emergency Regulations

Under State Government Article, §10-111(b), Annotated Code of Maryland, an agency may petition the Joint Committee on Administrative, Executive, and Legislative Review (AELR), asking that the usual procedures for adopting regulations be set aside because emergency conditions exist. If the Committee approves the request, the regulations are given emergency status. Emergency status means that the regulations become effective immediately, or at a later time specified by the Committee. After the Committee has granted emergency status, the regulations are published in the next available issue of the Maryland Register. The approval of emergency status may be subject to one or more conditions, including a time limit. During the time the emergency status is in effect, the agency may adopt the regulations through the usual promulgation process. If the agency chooses not to adopt the regulations, the emergency status expires when the time limit on the emergency regulations ends. When emergency status expires, the text of the regulations reverts to its original language.

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS — REAL ESTATE APPRAISERS

09.19.07 Fees

Authority: Business Occupations and Professions Article, §§ 16-217, 16-303, 16-308, 16-310, 16-505, 16-510, 16-511, 16-512, 16-5A-01, and 16-5A-04, Annotated Code of Maryland

Notice of Emergency Action

[12-048-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .01 under **COMAR 09.19.07 Fees**.

Emergency status began: February 24, 2012.

Emergency status expires: August 22, 2012.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 39:2 Md. R. 153 — 154 (January 27, 2012), referenced as [12-048-P].

Subtitle 36 COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS — HOME INSPECTORS

09.36.03 Fees

Authority: Business Occupations and Professions Article, §§ 16-217, 16-3A-03, 16-3A-05, 16-3A-07, and 16-3A-08, Annotated Code of Maryland

Notice of Emergency Action

[12-047-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .01 under **COMAR 09.36.03 Fees**.

Emergency status began: February 24, 2012.

Emergency status expires: August 22, 2012.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 39:2 Md. R. 157 (January 27, 2012), referenced as [12-047-P].

GEORGE FAIR

Chair

Maryland Commission of Real Estate
Appraisers and Home Inspectors

GEORGE FAIR

Chair

Maryland Commission of Real Estate
Appraisers and Home Inspectors

***Subtitle 39 COMMISSION OF REAL
ESTATE APPRAISERS AND HOME
INSPECTORS — APPRAISAL
MANAGEMENT COMPANIES***

09.39.01 Fees

Authority: Business Occupations and Professions Article, §§16-217, 16-5B-04, and 16-5B-18, Annotated Code of Maryland

Notice of Emergency Action

[12-045-E]

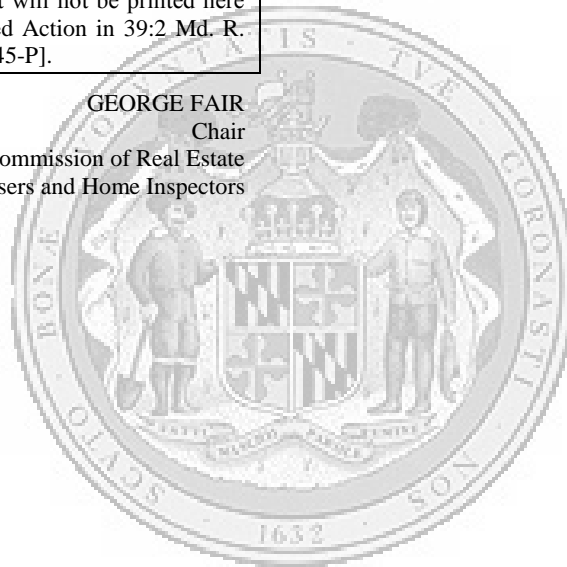
The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulation .01 under a new chapter, COMAR 09.39.01 Fees, under a new subtitle, **Subtitle 39 Commission of Real Estate Appraisers and Home Inspectors — Appraisal Management Companies.**

Emergency status began: February 24, 2012.

Emergency status expires: August 22, 2012.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 39:2 Md. R. 158 (January 27, 2012), referenced as [12-045-P].

GEORGE FAIR
Chair
Maryland Commission of Real Estate
Appraisers and Home Inspectors



Final Action on Regulations

Symbol Key

- Roman type indicates text already existing at the time of the proposed action.
- *Italic type* indicates new text added at the time of proposed action.
- Single underline, italic indicates new text added at the time of final action.
- Single underline, roman indicates existing text added at the time of final action.
- [[Double brackets]] indicate text deleted at the time of final action.

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.10 *Youth Transitional Services*

Authority: Family Law Article, §§5-501—5-503, 5-524—5-533, and 5-560 et seq.; Courts and Judicial Proceedings Article, §3-801 et seq.; Annotated Code of Maryland

Agency Note: Federal Regulatory Reference: 42 U.S.C. §620 et seq., and §670 et seq.; 45 CFR 1355—1357

Notice of Final Action

[11-369-F]

On March 12, 2012, the Secretary of Human Resources adopted amendments to Regulations **.01—,05**, new Regulations **.06** and **.13**, amendments to and the recodification of existing Regulations **.06—,11** and **.12 —,18** to be Regulations **.07—,12** and **.14—,20**, and the recodification of existing Regulation **.19** to be Regulation **.21** under **COMAR 07.02.10 Youth Transitional Services**. This action, which was proposed for adoption in 38:26 Md. R. 1700 — 1705 (December 16, 2011), has been adopted as proposed.

Effective Date: April 2, 2012.

THEODORE DALLAS
Secretary of Human Resources

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

Notice of Final Action

[12-056-F]

On March 13, 2012, the Secretary of Natural Resources adopted amendments to Regulation **.14** under **COMAR 08.02.03 Crabs**. This action, which was proposed for adoption in 39:2 Md. R. 145 — 147 (January 27, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

Notice of Final Action

[12-053-F]

On March 13, 2012, the Secretary of Natural Resources adopted amendments to Regulation **.12** under **COMAR 08.02.04 Oysters**. This action, which was proposed for adoption in 39:2 Md. R. 147 (January 27, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

Authority: Natural Resources Article, §4-701, Annotated Code of Maryland

Notice of Final Action

[12-002-F]

On March 13, 2012, the Secretary of Natural Resources adopted amendments to Regulation **.05** under **COMAR 08.02.01 General**. This action, which was proposed for adoption in 39:1 Md. R. 23 — 24 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOHN R. GRIFFIN
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

Notice of Final Action

[12-054-F]

On March 13, 2012, the Secretary of Natural Resources adopted amendments to Regulation **.20** under **COMAR 08.02.05 Fish**. This action, which was proposed for adoption in 39:2 Md. R. 148 — 149 (January 27, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 13 BOARD FOR PROFESSIONAL LAND SURVEYORS

09.13.08 Continuing Professional Competency Requirements

Authority: Business Occupations and Professions Article, §§15-314(f), 15-315, and 15-316, Annotated Code of Maryland

Notice of Final Action

[11-361-F]

On March 7, 2012, the Board for Professional Land Surveyors adopted amendments to Regulations .02, .08 — .11, and .14, new Regulations .03, .05 — .07, .12, .13, and .15, amendments to and the recodification of existing Regulation .03 to be Regulation .04, and the repeal of existing Regulations .04 — .07, .12, and .13 under COMAR 09.13.08 Continuing Professional Competency Requirements. This action, which was proposed for adoption in 38:26 Md. R. 1719—1722 (December 16, 2011), has been adopted as proposed.

Effective Date: April 2, 2012.

JOHN V. METTEE, III
Chair
Board for Professional Land Surveyors

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.18 Oxygen and Related Respiratory Equipment Services

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129, Annotated Code of Maryland

Notice of Final Action

[12-004-F]

On March 12, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .07 under COMAR 10.09.18 Oxygen and Related Respiratory Equipment Services. This action, which was proposed for adoption in 39:1 Md. R. 31 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.32 Targeted Case Management for HIV- Infected Individuals

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Final Action

[12-008-F]

On March 12, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .01—.06 under COMAR 10.09.32 Targeted Case Management for HIV-Infected Individuals. This action, which was proposed for adoption in 39:1 Md. R. 31 — 36 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 34 BOARD OF PHARMACY

10.34.23 Pharmaceutical Services to Patients in Comprehensive Care Facilities

Authority: Health Occupations Article, §§12-205, 12-403, and 12-6B-01, Annotated Code of Maryland

Notice of Final Action

[11-378-F]

On March 12, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulations .07 and .08 under COMAR 10.34.23 Pharmaceutical Services to Patients in Comprehensive Care Facilities. This action, which was proposed for adoption in 38:26 Md. R. 1726—1727 (December 16, 2011), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 38 BOARD OF PHYSICAL THERAPY EXAMINERS

Notice of Final Action

[12-011-F]

On March 12, 2012, the Secretary of Health and Mental Hygiene adopted amendments to:

- (1) Regulation .04 under COMAR 10.38.01 General Regulations; and
- (2) Regulation .03 under COMAR 10.38.06 Foreign-Educated Licensure Requirements.

This action, which was proposed for adoption in 39:1 Md. R. 52 — 53 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 41 BOARD OF EXAMINERS FOR AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH- LANGUAGE PATHOLOGISTS

10.41.03 Licensure and Continuing Education

Authority: Health Occupations Article, §§2-205 and 2-308, Annotated Code of Maryland

Notice of Final Action [12-012-F]

On March 12, 2012, the Secretary of Health and Mental Hygiene adopted amendments to Regulation .06 under **COMAR 10.41.03 Licensure and Continuing Education**. This action, which was proposed for adoption in 39:1 Md. R. 53 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 46 BOARD OF OCCUPATIONAL THERAPY PRACTICE

10.46.02 Code of Ethics

Authority: Health Occupations Article, §10-205, Annotated Code of Maryland

Notice of Final Action [12-014-F]

On March 1, 2012, the Secretary of Health and Mental Hygiene adopted new Regulation .03 and the recodification of existing Regulation .03 to be Regulation .04 under **COMAR 10.46.02 Code of Ethics**. This action, which was proposed for adoption in 39:1 Md. R. 54 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Title 13A STATE BOARD OF EDUCATION

Subtitle 04 SPECIFIC SUBJECTS

13A.04.07 Gifted and Talented Education

Authority: Education Article, §§5-401(d) and [[§§8-201—203]] 8-201 — 8-203, Annotated Code of Maryland

Notice of Final Action [11-367-F]

On February 28, 2012, the Maryland State Board of Education adopted new Regulations .01—.06 under a new chapter, **COMAR 13A.04.07 Gifted and Talented Education**. This action, which was proposed for adoption in 38:26 Md. R. 1732—1733 (December 16, 2011), has been adopted as proposed.

Effective Date: April 2, 2012.

BERNARD J. SADUSKY, Ed.D
Interim State Superintendent of Schools

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.03 Academic Programs — Degree- Granting Institutions

Authority: Education Article, §§ 11-105(k) and (u), 11-201, 11-206, and 11-206.1, Annotated Code of Maryland

Notice of Final Action [11-382-F]

On March 7, 2012, the Maryland Higher Education Commission adopted the repeal of existing Regulations .26—.34, new Regulations .19, .24, and .28, amendments to Regulations .01, .02, .03—.14, and .16—.18, amendments to and the recodification of existing Regulations .19, .21, .23, .24, and .25 to be Regulations .20, .23, .25, .26, and .27, and the recodification of existing Regulations .20 and .22 to be Regulations .22 and .21 under **COMAR 13B.02.03 Academic Programs — Degree-Granting Institutions**. This action, which was proposed for adoption in 39:1 Md. R. 54 — 68 (January 13, 2012), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 2, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .03F(3): A typographical error is corrected, changing "time fame" to "time frame".

Regulation .10D(3): A typographical error is corrected, changing "timeframe" to "time frame".

.03 Statutory Authority of the Commission Regarding Academic Program Review, Approval, and Recommendation.

A. — E. (proposed text unchanged)

F. Program Review Process.

(1) — (2) (proposed text unchanged)

(3) After revising a proposal to address the Commission's reasons for disapproval or *non-recommendation*, the governing body may resubmit the revised proposal to the Commission in accordance with the schedule in Regulation .27 of this chapter, thereby triggering a new 60-day [[time fame]] time frame for Commission action.

G. — I. (proposed text unchanged)

.10 Adequacy of Curriculum Design and Related Learning Outcomes.

A. — C. (proposed text unchanged)

D. *Accreditation Requirements; Conditional Approval.*

(1) — (2) (proposed text unchanged)

(3) *Except as provided in §D(4) of this regulation, the Secretary's conditional approval shall be revoked if an institution fails to secure appropriate accreditation, certification, or approval for the program within a [[timeframe]] time frame consistent with the relevant approval process.*

(4) (proposed text unchanged)

E. (proposed text unchanged)

DANETTE G. HOWARD, Ph.D.
Interim Secretary of Higher Education

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 14 BOARD OF VETERINARY MEDICAL EXAMINERS

15.14.12 Fees

Authority: Agriculture Article, §2-303, Annotated Code of Maryland

Notice of Final Action [12-023-F]

On March 13, 2012, the State Board of Veterinary Medical Examiners adopted amendments to Regulation .02 under **COMAR 15.14.12 Fees**. This action, which was proposed for adoption in 39:2 Md. R. 213 — 214 (January 27, 2012), has been adopted as proposed.
Effective Date: April 2, 2012.

EARL F. HANCE
Secretary of Agriculture

Title 20 PUBLIC SERVICE COMMISSION

Subtitle 61 RENEWABLE ENERGY PORTFOLIO STANDARD PROGRAM

20.61.02 Certifiable Renewable Energy Facilities

Authority: Public Utilities Article, §§2-121, 5-101, and 7-701 — 7-713, Annotated Code of Maryland

Notice of Final Action [11-386-F]

On February 29, 2012, the Public Service Commission adopted amendments to Regulation .01 under **COMAR 20.61.02 Certifiable Renewable Energy Facilities**. This action, which was proposed for adoption in 38:27 Md. R. 1782—1783 (December 30, 2011), has been adopted as proposed.
Effective Date: April 2, 2012.

DAVID J. COLLINS
Executive Secretary
Public Service Commission

Title 24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

Subtitle 05 ECONOMIC DEVELOPMENT

24.05.26 Arts and Entertainment Districts

Authority: Economic Development Article, §§2-108 and 4-701—4-707, Annotated Code of Maryland

Notice of Final Action [12-050-F]

On March 13, 2012, the Secretary of Business and Economic Development adopted amendments to Regulation .08 under **COMAR 24.05.26 Arts and Entertainment Districts**. This action, which was proposed for adoption in 39:2 Md. R. 215 (January 27, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

CHRISTIAN S. JOHANSSON
Secretary of Business and Economic Development

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

26.08.02 Water Quality

Authority: §§9-303.1, 9-313 — 9-316, 9-319, 9-320 — 9-325, 9-327, and 9-328, Annotated Code of Maryland

Notice of Final Action [12-021-F]

On March 7, 2012, the Secretary of the Environment adopted amendments to Regulation .03-3 under **COMAR 26.08.02 Water Quality**. This action, which was proposed for adoption in 39:1 Md. R. 69 — 71 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Final Action

[11-349-F]

On March 7, 2012, the Secretary of the Environment adopted amendments to Regulations **.01**, **.02**, and **.08-1** and new Regulation **.08-2** under **COMAR 26.11.08 Control of Incinerators**. This action, which was proposed for adoption in 38:25 Md. R. 1651—1659 (December 2, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 2, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 26.11.08.08-2G(1): This change removes an incorrect reference.

COMAR 26.11.08-2G(2) and H(1): The date has been changed to April 30, 2012 to reflect the effective date of this regulation, and the time needed for compliance.

.08-2 Emission Standards and Requirements for HMIWIs Under 40 CFR 60 Subpart Ce as Revised October 6, 2009.

A. — F. (proposed text unchanged)

G. HMIWI Shutdown.

(1) *A person who owns or operates a HMIWI and plans to shutdown rather than comply with the requirements of this regulation and amended 40 CFR Part 60 Subpart Ce shall cease operations by June 15, 2012, but not later than October 6, 2014, as provided in [[§]]§G(2) [[and (3)]] of this regulation.*

(2) *A request for an extension of the June 15, 2012 cease operation deadline shall be submitted to the Department by [[December 15, 2011]] April 30, 2012 and contain the following information:*

(a) — (c) (proposed text unchanged)

H. *Shut-Down Extension Requests for the Installation of Alternative Treatment Technologies. A person who owns or operates an HMIWI and requests an extension to install alternative treatment technologies shall:*

(1) *Submit by [[December 15, 2011]] April 30, 2012 a request to the Department to install alternative treatment technology;*

(2) — (5) (proposed text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 30

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subtitle 01 GENERAL

30.01.02 Documents Incorporated by Reference

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Final Action

[12-022-F-I]

On March 13, 2012, the Maryland Emergency Medical Services Board adopted amendments to Regulation **.01** under **COMAR 30.01.02 Documents Incorporated by Reference**. This action was taken at a public meeting, notice of which was given by publication in 39:4 Md. R. 356 (February 24, 2012) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. This action, which was proposed for adoption in 39:1 Md. R. 71 (January 13, 2012), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 2, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .01: Correction of typographical error in edition date for Maryland Medical Protocols for Emergency Medical Services Providers.

.01 Incorporation by Reference.

A. (proposed text unchanged)

B. Documents Incorporated.

(1) "Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS July [[12]] L, 2011 Edition)". This document can be obtained through the Maryland Institute for Emergency Medical Services Systems at 653 W. Pratt Street, Baltimore, Maryland 21201 (410-706-4449).

(2) — (3) (proposed text unchanged)

ROBERT R. BASS, M.D.

Executive Director

Maryland Institute for Emergency Medical Services Systems

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 05 ASSETS, LIABILITIES, RESERVES, AND INVESTMENTS OF INSURERS

31.05.01 Annual Actuarial Opinion and Memorandum

Authority: Insurance Article, §§2-109(a)(1), 4-116, 5-103, 5-201, 8-444, and 14-121, Annotated Code of Maryland

Notice of Final Action

[12-020-F]

On February 28, 2012, the Insurance Commissioner adopted amendments to Regulation .06 under **COMAR 31.05.01 Annual Actuarial Opinion and Memorandum**. This action, which was proposed for adoption in 39:1 Md. R. 72 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

THERESE M. GOLDSMITH
Insurance Commissioner

Subtitle 12 HEALTH MAINTENANCE ORGANIZATIONS; ENTITIES THAT ACT AS HEALTH INSURERS

31.12.01 Health Maintenance Organizations — Certificate of Authority and Fiscal Requirements

Authority: Health-General Article, §§19-705(a) and 19-728, Annotated Code of Maryland

Notice of Final Action

[12-001-F]

On February 28, 2012, the Insurance Commissioner adopted amendments to Regulation .12 under **COMAR 31.12.01 Health Maintenance Organizations — Certificate of Authority and Fiscal Requirements**. This action, which was proposed for adoption in 39:1 Md. R. 72-73 (January 13, 2012), has been adopted as proposed.

Effective Date: April 2, 2012.

THERESE M. GOLDSMITH
Insurance Commissioner

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.14 In-Home Aide Services

Authority: Human Services Article, §§6-501—6-505; Family Law Article, §§5-524, 5-710, and 14-207; Annotated Code of Maryland
(Agency Note: Federal Regulatory Reference—45 CFR 1357)

Notice of Proposed Action

[12-077-P]

The Secretary of Human Resources proposes to repeal existing Regulations **.01—,10** and adopt new Regulations **.01—.08** under **COMAR 07.02.14 In-Home Aide Services**.

Statement of Purpose

The purpose of this action is to clarify the conditions that make an individual eligible for in-home aide services, to reduce the number of the local department of social services administrative appeals as a result of termination and/or reduction in personal care and chore services, and to streamline the overall ranking scale criteria process in determining eligibility for in-home aide services.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

This program serves individuals with disabilities. It provides personal care and chore services to individuals with disabilities that meet the programs eligibility criteria.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga Street, Baltimore, MD 21201, or call 410-767-2149, or email to ashuck@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.01 Purpose.

The purpose of the In-Home Aide Services (IHAS) program is to supplement other social services programs by providing specific services to individuals of all ages in the home in order to:

- Prevent or remedy the risk of abuse, neglect, self-neglect, and exploitation;*
- Promote a safe environment;*
- Promote self-sufficiency;*
- Engage existing formal and informal natural supports;*
- Provide nonskilled home health aide services to adults with functional disabilities;*
- Provide therapeutic support services to families; and*
- Prevent or reduce the length of institutional placement.*

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Abuse" has the meaning stated in COMAR 07.02.11.03B(2) and COMAR 07.02.15.02B(1).

(2) "Administration" means the Social Services Administration of the Department of Human Resources.

(3) "Care Plan" means a written plan that indicates:

- Goals;*
- Tasks to be performed;*
- Frequency; and*

(d) *Hours.*

(4) *"Case Management"* has the meaning stated in COMAR 07.02.15.02B(7).

(5) *"Client"* means an eligible individual receiving In-Home Aide Services.

(6) *"Delegating nurse"* has the meaning stated in COMAR 10.27.11.03A.

(7) *"Exploitation"* means any action which involves the misuse of a vulnerable adult's funds, property, or person.

(8) *"Functional disability"* means difficulty in performing activities of daily living because of:

(a) A physical, cognitive, or psychiatric condition; or

(b) Environmental factors.

(9) *Home.*

(a) *"Home"* means the place a client resides.

(b) *"Home"* does not include an acute care hospital, an emergency room, a psychiatric hospital, an assisted living facility, a Project Home/CARE Home, a home of an aide, or any other facility that provides care or supervision for clients.

(10) *"Institutionalization"* means placement in a hospital, psychiatric hospital, or nursing home.

(11) *"Intensive services"* means requiring more than 14 hours of services per week with the approval of the delegating nurse that such services can be delivered safely.

(12) *"Local department"* means the department of social services in one of the 21 counties or Baltimore City, the Montgomery County Department of Health and Human Services, or the Anne Arundel County Department of Aging and Disabilities, depending where the applicant resides or will reside.

(13) *"Natural supports"* means the formal and informal use of family, faith community, neighbors, friends, or any alternative services or resources identified as part of the Service plan.

(14) *"Neglect"* has the meaning stated in COMAR 07.02.11.03 or COMAR 07.02.15.02B(17).

(15) *"Reconsideration"* means a comprehensive reassessment of a client's status by a case manager, a registered nurse, or IHAS staff to determine if the IHAS Care Plan remains appropriate and effective.

(16) *"Redetermination"* means a comprehensive reassessment of a client's income and assets for eligibility and determination whether the client is required to pay a fee for service.

(17) *"Registered nurse"* has the meaning stated in COMAR 10.27.11.02B(17).

(18) *"Safe environment"* means that a client is able to remain in the client's current living situation and negotiate the living environment independently with limited supports to gain access to groceries, medications, medical appointments, and transportation and with limited assistance with personal care.

(19) *"Self-neglect"* has the meaning stated in COMAR 07.02.15.02B(20).

(20) *"Service Plan"* has the meaning stated in COMAR 07.02.15.02B(21).

(21) *"Therapeutic services"* means supportive services designed to effect behavioral changes, improvement in care giving skills or in-home management skills to prevent out-of-home placement or to expedite reunification.

.03 Eligibility.

A. An individual is eligible for IHAS if the individual:

(1) Has a functional disability;

(2) Is receiving case management in a social service program from a local department or from a social service agency through an arrangement with the administration, and requires the service as a part of a treatment plan to:

(a) Prevent and remedy the risk of abuse, neglect, self-neglect, or exploitation;

(b) Promote a safe environment;

(c) Promote self-sufficiency;

(d) Engage existing formal and informal natural supports;

(e) Provide nonskilled home health aide services to adults with functional disabilities;

(f) Provide therapeutic support services to families; or

(g) Prevent or reduce the length of institutional placement;

(3) Is willing to accept IHAS;

(4) Meets both the financial and asset eligibility requirements of the case managed social service program;

(5) Agrees to pay the fee required in a fee schedule published by the administration; and

(6) Requires care that does not exceed the scope of the program, or is temporarily receiving services through a child protective services or adult protective services program.

B. The proposed IHAS services may not exceed 14 hours per week or 364 hours for a 6-month period.

C. *Waiver of Fees.*

(1) The director of a local department or the director's designee may waive a fee for service for applicants or clients who require services as a part of a treatment plan to prevent or remedy abuse, neglect, self-neglect, or exploitation.

(2) The continued need for a waiver shall be reviewed, and approved or denied by the director or the director's designee every 6 months.

.04 Application for Service.

A. The local department shall screen an applicant's completed Request for In-Home Aide Services for IHAS service on the required forms prescribed by the administration that include:

(1) An assessment of the individual's functional capacity;

(2) A ranking scale of risk factors determined by the administration;

(3) A copy of the case manager's service plan which includes a request for IHAS;

(4) Income and asset documentation; and

(5) An application for IHAS signed by the individual or the individual's representative.

B. If, after screening, the applicant is found eligible, the local department shall:

(1) Determine if a service slot is available;

(2) If a service slot is available, inform the applicant of the expected date services will begin; and

(3) If a service slot is not available, place the applicant on the IHAS waiting list.

C. If, after screening, the applicant is found not eligible, the local department shall send written notification to the applicant that includes the reason for the decision.

.05 Scope of Service.

A. If funds or staff are available, the local department may provide IHAS services by:

(1) Assigning an aide who is employed by the local department;

(2) Purchasing services from a private for profit or nonprofit agency that has contracted with the administration to provide the services; or

(3) Purchasing the services from a self-employed individual.

B. The local department may, based on the availability of staff and funding, as well as an assessment of the individual's needs, provide the following specific services up to 14 hours per week:

(1) Personal care services, which include:

(a) Assisting with dressing;

(b) Bathing;

(c) Feeding;

(d) Grooming;

(e) Assisting with toileting;

- (f) Transferring in and out of bed and wheelchair; and
- (g) Assisting with ambulation;
- (2) Cleaning the bedroom, bathroom, and kitchen;
- (3) Personal laundry;
- (4) Transportation and escort services to health care appointments and shopping facilities as well as access to other community resources as identified in the care plan;
- (5) Meal preparation;
- (6) Teaching meal planning, safe food handling, and meal preparation; and
- (7) Therapeutic aide services, which include:
 - (a) Emotional support;
 - (b) Introducing the client to neighborhood resources;
 - (c) Reinforcing appropriate self-care and caretaking behaviors;
 - (d) Budgeting;
 - (e) Home management; and
 - (f) Effective parenting skills.

C. The care plan agreement shall follow the established guidelines under the Nurse Practice Act as set forth in COMAR 10.27.09.031 that limit the type of hands-on services that may be delegated to unlicensed care staff.

D. The client shall agree to comply with the specific provisions of the IHAS care plan including the recommendations of the delegating nurse.

E. A local department may terminate services for failure of the client to comply with the recommendations of the delegating nurse.

F. Provision of Additional Services.

(1) Depending on the availability of funding and staff, the local department may provide services in excess of 14 hours per week and 364 hours per 6-month period.

(2) Additional services provided under §F(1) of this regulation are either emergent or clinically based intensive services.

(3) A local department may provide additional types of in-home aide services to the eligible individual.

(4) The eligible individual shall agree to comply with the provisions of the care plan, including the recommendations of the delegating nurse.

(5) A local department may provide additional services to a family with children if:

(a) The need for an additional amount of services is documented in the case record as being necessary to prevent out-of-home placement or to reduce the length of out-of-home placement; and

(b) The case manager assesses the family as potentially capable of providing adequate and safe care to the child without the use of in-home aide services within the time specified in the service plan for effecting reunification or preventing out-of-home placement.

G. Status Reports.

(1) The service provider shall submit a report on a form approved by the Administration to the IHAS supervisor on the client's current situation:

- (a) At least on a monthly basis;
- (b) More often than monthly if necessary;
- (c) Regardless of the method by which services are delivered; and
- (d) Specifying any changes in the client's situation and whether the client prevents the aide from performing the tasks agreed to in the plan for aide services.

(2) The local department shall monitor to ensure that the status reports are submitted according to §F(1) of this regulation.

(3) The IHAS supervisor or designee shall take appropriate action in response to the status reports.

H. Suspension of Services. The local department may suspend services for up to 4 weeks when the IHAS supervisor notifies the case manager that any of the following conditions exist:

- (1) The client is absent from the home;
- (2) The client has prevented the IHAS aide from performing tasks agreed upon in the care plan; or
- (3) The client develops a pattern of unavailability during scheduled service time.

I. Emergency Suspension.

(1) The local department may immediately suspend services on an emergency basis if the IHAS supervisor determines that there is an immediate threat to the aide's health, safety, or welfare from:

- (a) Environmental hazards;
- (b) A client;
- (c) A member of the client's household; or
- (d) An individual regularly present during periods of services.

(2) The local department shall send written notice of the suspension to the client by certified mail stating:

- (a) The regulatory basis for the suspension;
- (b) The client's right to a hearing within 7 calendar days of a request for a hearing;
- (c) That the Secretary's designee shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;
- (d) That if the emergency suspension order is upheld, aide services shall be suspended until it has been determined that the health, safety, or welfare of the aide is no longer threatened; and
- (e) The suspension may lead to termination.

J. Emergency Action Hearing Requests.

- (1) Emergency action hearing requests shall:
 - (a) Be filed with the local department within 10 days of the certified mailing of the notice of the local department's action; and
 - (b) State the name and address of the client and the effective date of the action being appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request.

(3) Oral notification shall be followed by written notification within 24 hours.

(4) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(5) A decision by the administrative law judge shall be rendered within 7 days following the conclusion of the hearing.

K. Limitations on Service.

(1) The local department may provide aide services up to the maximum of 14 hours per week for each eligible individual based on a comprehensive assessment and determination of need.

(2) For a client requiring intensive services as set forth in §F of this regulation, the IHAS supervisor shall determine the total hours needed for 6 months of IHAS, not to exceed 364 hours. If the service request exceeds 364 hours in a 6-month period, the client is not eligible for IHAS.

(3) The local department may only provide intensive services to individuals identified in §.05F of this chapter if the case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the service plan for effecting reunification or preventing out-of-home placement.

.06 Redetermination.

A. The local department shall redetermine every 6 months the client's income and assets and whether the client is required to pay a fee.

B. The local department shall reconsider the client's need for IHAS, including any required change in the personal care plan, and complete a ranking scale at least every 6 months or sooner if the client's situation has changed significantly.

C. Reductions. The local department may reduce the number of hours of service provided to a client for any of the following reasons:

- (1) Insufficient funds;*
- (2) Improvement in the client's condition or situation;*
- (3) Loss of program staff; or*
- (4) Receipt of services from other publicly funded services or natural supports.*

D. Terminations.

(1) The local department shall terminate services under any of the following circumstances:

- (a) Objectives of service have been reached and the IHAS supervisor and case manager agree that service is no longer needed;*
- (b) The client, client's family, or case manager is able to secure the service from an alternative source such as medical assistance personal care, Medicaid services, Veteran's Affairs, attendant care funds, senior care, or other community-based services;*

(c) The case manager evaluates the client as no longer in need of IHAS;

(d) The client is deceased;

(e) The client moves outside the local department's jurisdiction;

(f) The client is hospitalized longer than 4 weeks, placed in a long-term care facility for services other than short-term rehabilitation or is receiving community-based waiver program service;

(g) The client is no longer eligible;

(h) The limit in Regulation .05F of this chapter has been reached;

(i) The case manager, with the IHAS supervisor, determines that the service has not been effective in achieving the specific changes in the client's condition or family's situation which were expected to result from providing services;

(j) The service is suspended for 4 weeks;

(k) The client requests termination;

(l) The client declines IHAS services;

(m) The behavior of the client or other household members has prevented the aide from performing tasks identified in the care plan or places the aide at risk of harm;

(n) The unresolved environmental issues pose an immediate threat to the health and safety of a care provider or case manager; or

(o) There is insufficient staff or funds to serve the current number of clients.

(2) Termination under §D(1)(o) of this regulation shall be in order of lowest priority to highest priority based on ranking.

(3) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .05F(1) and (2) of this chapter.

(4) The notice to the client shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to and the method to request a fair hearing.

.07 Appeal Rights and Nondiscrimination.

A. The local department shall give written notification of the right to and the procedures for requesting and obtaining a fair hearing to each applicant or client of IHAS at the time of application, and if the local department notifies the applicant or client of an action which might deny, delay, suspend, reduce, or terminate service. The procedures are set forth in COMAR 07.01.04.

B. Emergency Hearing Requests.

(1) All emergency hearing requests shall be filed with the local department within 10 days of the certified mailing of the notice of the local department's action and shall state the name and address of the client and the effective date of the action appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(4) A decision by the Office of Administrative Hearings Administrative Law Judge shall be rendered within 7 days after the conclusion of the hearing.

C. Discrimination. The local department may not discriminate in the delivery of service, as required by the nondiscrimination procedures set forth in COMAR 07.01.03.04A.

.08 Waiting List.

A. Local departments shall use a ranking scale of risk factors, a standardized tool determined by the administration, to determine the condition and service needs of the client.

B. Local departments shall keep a waiting list if they are unable to serve eligible clients immediately.

C. Local departments shall provide services to applicants with the highest point total first, and, when there is a waiting list and scores are equal, those with earlier date of application are served first.

D. Individuals on the waiting list shall be served as resources become available.

E. If a rescoring is required by Regulation .06B of this chapter, the local department shall score the client based on the case manager's assessment of the client's condition if IHAS were removed.

THEODORE DALLAS
Secretary of Human Resources

Subtitle 03 FAMILY INVESTMENT ADMINISTRATION

07.03.03 Family Investment Program

Authority: Human Services Article, §5-207 and Title 5, Subtitle 3, Annotated Code of Maryland; Ch. 469, Acts of 2009;

Notice of Proposed Action

[12-076-P]

The Secretary of Human Resources proposes to amend Regulation **.19** under **COMAR 07.03.03 Family Investment Program**.

Statement of Purpose

The purpose of this action is to clarify the rules for Family Investment Program, Temporary Cash Assistance (TCA) conciliation and sanction process at application.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Acting Regulations Coordinator, Department of Human Resources, 311 W. Saratoga Street, Rm. 270, Baltimore, MD 21201, or call 410-767-2149, or email to regulations@dhr.state.md.us, or fax to 410-333-0637. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.19 Conciliation, Sanctions, and Other Penalties.

[A. Sanctions for Noncompliance.

(1) Except as provided in Regulation .09D and E of this chapter for substance abuse, when an adult is found to be in noncompliance with program requirements, the:

- (a) Entire assistance unit is ineligible; and
- (b) Case manager shall:
 - (i) Investigate the reasons for noncompliance; and
 - (ii) Make personal contact with the assistance unit to the extent it is appropriate and feasible.

(2) When a child is found to be in noncompliance with program requirements, the:

- (a) Child remains a member of the assistance unit;
- (b) Child's incremental portion of the grant is deducted from the family's TCA grant; and (c) Case manager shall:
 - (i) Investigate the reasons for noncompliance; and
 - (ii) Make personal contact with the assistance unit to the extent it is appropriate and feasible.

(3) A sanction may not be imposed less than 30 days from the first written notice of noncompliance with a program requirement.

(4) Conciliation Process.

(a) The local department shall allow one 30-day conciliation period for each adult or child's failure to comply with requirements for each of the following:

- (i) Work as specified in Regulation .07-1 of this chapter;
- (ii) Child support as specified in Regulation .10A of this chapter;
- (iii) Substance abuse treatment and testing as specified in Regulation .09 of this chapter;
- (iv) Long term disability requirements as specified in Regulation .08A and B of this chapter; and
- (v) Minor parent school enrollment and attendance as specified in Regulation .07H and .07-1 of this chapter.

(b) During the 30-day period, the case manager shall help the individual comply by:

- (i) Sending the individual a letter to schedule a conciliation conference; and
- (ii) Following up on the letter through telephone contact or personal contact as appropriate and feasible.

(c) After the 30-day period, a later instance of noncompliance with the same program requirement does not entitle the individual to another 30-day conciliation period.

(5) For noncompliance with any program requirement other than a work activity, TCA shall be resumed upon compliance with the program requirement.

(6) For noncompliance with a work activity, TCA shall be resumed in the following manner:

(a) For the first instance of noncompliance, TCA shall be resumed immediately upon compliance with the work activity, except, if noncompliance continues into a new month, then the TCA shall be prorated from the day after the day of compliance;

(b) For the second instance of noncompliance, TCA shall be resumed and prorated from the day after the 10 calendar day period during which the sanctioned individual complied with the work activity for all available activity days; or

(c) For the third and any subsequent instance of noncompliance, TCA shall be resumed and prorated from the day

after the 30 calendar day period during which the sanctioned individual complied with the work activity for all available activity days.

(7) If an individual fails to comply during a sanction period without good cause:

- (a) The sanction period shall start over;
- (b) No additional instance of noncompliance is counted against the noncomplying individual; and
- (c) The TCA benefit may not be resumed until compliance is met.

(8) All individuals in the assistance unit are sanctioned except a child who is:

- (a) Placed with another caretaker relative by the Social Services Administration;
- (b) In the legal custody of another caretaker relative; or
- (c) Living with another caretaker relative when the sanctioned caretaker relative is institutionalized.]

A. Conciliation Process.

(1) Conciliation and sanction are applied to recipient assistance units only.

(2) The local department shall allow one 30-day conciliation period for each recipient's failure to comply with requirements for each of the following:

- (a) Work as specified in Regulation .07-1 of this chapter;
- (b) Child support as specified in Regulation .10A of this chapter;
- (c) Substance abuse treatment and testing as specified in Regulation .09 of this chapter;
- (d) Long term disability requirements as specified in Regulation .08A and B of this chapter; and
- (e) Minor parent school enrollment and attendance as specified in Regulation .07H and .07-1 of this chapter.

(3) During the 30-day period, the case manager shall advise the individual of the noncompliance and help the individual to comply by:

- (a) Sending the individual a letter to schedule a conciliation conference;
- (b) Following up on the letter through telephone contact or personal contact as appropriate and feasible;
- (c) Investigating with the individual any barriers or good cause reasons for the noncompliance; and
- (d) Assisting the individual in resolving the barriers to compliance.

(4) After the 30-day period, a later instance of noncompliance with the same program requirement does not entitle the individual to another 30-day conciliation period.

B. Sanctions for Noncompliance.

(1) Except as provided in Regulation .09D and E of this chapter for substance abuse, when an adult recipient is found to be in noncompliance with program requirements, the:

- (a) Entire assistance unit is ineligible; and
- (b) Case manager shall:
 - (i) Investigate the reasons for noncompliance; and
 - (ii) Make personal contact with the assistance unit to the extent it is appropriate and feasible.

(2) When a child is found to be in noncompliance with program requirements, the:

- (a) Child remains a member of the assistance unit;
- (b) Child's incremental portion of the grant is deducted from the family's TCA grant; and
- (c) Case manager shall:
 - (i) Investigate the reasons for noncompliance; and
 - (ii) Make personal contact with the assistance unit to the extent it is appropriate and feasible.

(3) *When implementing a sanction:*

(a) *For a first instance of noncompliance, a sanction may not be imposed less than 30 days from the first written notice of noncompliance with a program requirement, and:*

(i) *TCA shall be resumed immediately upon compliance with the work activity; or*

(ii) *If the noncompliance continues into a new month, TCA shall be prorated from the day after the day of compliance;*

(b) *For a second or subsequent instance of noncompliance, a sanction may be imposed:*

(i) *After the case manager investigates the reasons for the noncompliance;*

(ii) *Following adequate and timely adverse action; or*

(iii) *TCA shall be resumed and prorated from the day after the 10 calendar day period during which the sanctioned individual complied with the work activity for all available activity days; or*

(c) *For a third and any subsequent instance of noncompliance, TCA shall be resumed and prorated from the day after the 30 calendar day period during which the sanctioned individual complied with the work activity for all available activity days.*

(4) *If an individual fails to comply during a sanction period without good cause:*

(a) *The sanction period shall start over;*

(b) *No additional instance of noncompliance is counted against the noncomplying individual; and*

(c) *The TCA benefit may not be resumed until compliance is met.*

(5) *All individuals in the assistance unit are sanctioned except a child who is:*

(a) *Placed with another caretaker relative by the Social Services Administration;*

(b) *In the legal custody of another caretaker relative; or*

(c) *Living with another caretaker relative when the sanctioned caretaker relative is institutionalized.*

[(9)] (6) (text unchanged)

[B.] C. — [D.] E. (text unchanged)

THEODORE DALLAS
Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

Authority: Natural Resources Article, §§4-215 and 4-206, Annotated Code of Maryland

Notice of Proposed Action

[12-074-P]

The Secretary of Natural Resources proposes to adopt Regulation .10 under COMAR 08.02.01 General.

Statement of Purpose

The purpose of this action is to create a pilot program permit structure for future commercial fisheries pilot programs. The Department of Natural Resources proposes to conduct certain voluntary pilot projects for practical demonstration and evaluation of

alternative fisheries management and harvest methods to increase harvest accountability as well as efficiency and value within the fishery.

Current fisheries management is burdened by historical management practices largely developed over the last 100 years. Regulatory practices necessary to support that system lack flexibility in application and are often too complex for easy understanding. Typically, fisheries today are managed by requiring inefficiency of harvesters. With each regulatory step, harvesters attempt to regain efficiency through unforeseen loopholes or advances in harvest techniques which outpace the regulation. Management agencies respond with additional regulations — and the cycle continues. The Department believes the regulatory burden on both management agency and harvesters can be significantly reduced by emphasizing improved harvest accountability techniques and resulting increased efficiency value in the fishery. However, rather than create temporary additional regulations that apply only to permit holders, the Department proposes to conduct pilot projects developed in cooperation with the commercial fishing industry. Individuals participating in these projects would receive permits from the Department. The permits would specify the details of the project. Additionally, Natural Resource Police would be informed of all permit holders and projects. Pilot projects for demonstration and evaluation of alternative accountability practices would greatly enhance development and application of improved management practices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Pilot Program and Permits, Regulatory Staff, Maryland Department of Natural Resources Fisheries Service, 580 Taylor Ave, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.10 Pilot Programs.

A. *The Department may conduct pilot projects to demonstrate and evaluate new approaches to managing fisheries under the fishery management plans as incorporated by reference in Regulation .01 of this chapter for the following species:*

- (1) *Blue crabs;*
- (2) *Striped bass;*
- (3) *Oysters;*
- (4) *Hard clams;*
- (5) *Yellow perch;*
- (6) *Summer flounder;*
- (7) *Black sea bass;*
- (8) *Tautog;*
- (9) *Bluefish;*
- (10) *Weakfish and spotted sea trout;*
- (11) *Black drum;*
- (12) *Red drum;*
- (13) *Horseshoe crabs;*
- (14) *American eel;*

- (15) Alosid; and
(16) Croaker and Spot.

B. Pilot Project Activities. Notwithstanding Natural Resources, Title 4 (except for §4-1002), Annotated Code of Maryland, and COMAR 08.02, pilot projects may be conducted to implement conservation and management measures as defined by a fishery management plan.

C. The Department may select and designate certain persons licensed under Natural Resources Article, §4-701, Annotated Code of Maryland, to participate in a pilot project. A participating licensee shall:

- (1) Apply for a pilot program permit on forms provided by the Department;
(2) Have a pilot program permit in order to participate in a pilot program;
(3) Comply with any conditions of the permit; and
(4) Be eliminated from the pilot project at the discretion of the Department.

D. The Department shall:

- (1) Develop pilot projects in cooperation with the commercial fishing industry;
(2) Prepare a written evaluation of the pilot project to be included in the annual Fisheries Management Plan report to the General Assembly; and
(3) Provide adequate notice of a pilot program through various media so that an interested individual has reasonable opportunity to be informed.

JOHN R. GRIFFIN
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 34 OFFICE OF CEMETERY OVERSIGHT

Notice of Proposed Action [12-088-P]

The Director of the Office of Cemetery Oversight proposes to adopt:

- (1) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.05 Crematories — Definitions**;
(2) New Regulations .01 — .13 under a new chapter, **COMAR 09.34.06 Crematories — Permit and Registration Process and Fees**;
(3) New Regulations .01 — .06 under a new chapter, **COMAR 09.34.07 Crematories — Inspections, Complaints, and Discipline**;
(4) New Regulations .01 — .10 under a new chapter, **COMAR 09.34.08 Crematories — Cremation Procedures**; and
(5) New Regulations .01 and .02 under a new chapter, **COMAR 09.34.09 Crematories — Code of Ethics**.

Statement of Purpose

The purpose of this action is to implement the provisions in Ch. 450, Acts of 2010, requiring the Office of Cemetery Oversight and the State Board of Morticians and Funeral Directors to establish a specified process and adopt specified regulations for regulating crematories. Such regulations specifically include regulations

governing registration or licensure and renewal; applications, including certification of ownership and identification of individuals who will perform cremation; registration or licensure fees; cremation containers; holding facilities; authorization forms; waiting period before cremation; delegation of authority to cremate; liability of authorizing agent and crematory; receipts and records of cremation; resolution of disputes regarding cremation; prohibition against requiring caskets and embalming; identification of human remains before and after cremation; storage of human remains before cremation; hazardous implants; prohibition against simultaneous cremation of more than one person without authorization; inspection and copying of records by regulating authority; approved containers for cremains; disposition of unclaimed cremains; inspections; registration or licensure fees; providing identification of and updates on individuals performing cremation to the regulating authority; and any other issue determined to be necessary to carry out the provisions of Ch. 450, Acts of 2010.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Office of Cemetery Oversight will incur a modest increase in workload as a result of establishing a regulatory program governing crematories. This will include reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on crematories and operators, generating a limited amount of additional revenue. Existing staff will absorb the additional workload. Crematories will bear the additional cost of the licensing fee, which may be passed through to consumers. Consumers will have the benefit of the standards established for the operation of a crematory and the conduct of cremations, as well as specific recourse to a state regulator for complaints.

II. Types of Economic Impact.

	Revenue (R+/R-)		Expenditure (E+/E-)	Magnitude
<hr/>				
A. On issuing agency:				
Office of Cemetery Oversight	(R+)			Less than \$5000 in new revenue from biennial fees.
B. On other State agencies:				
			NONE	
C. On local governments:				
			NONE	
		Benefit (+)		
		Cost (-)		Magnitude
<hr/>				
D. On regulated industries or trade groups:				
Crematories	NONE			All crematories, new biennial fees less than \$5000
E. On other industries or trade groups:				
			NONE	
F. Direct and indirect effects on public:				
Consumers of crematory services	(+)			Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. It is estimated that the Office will license fewer than ten crematories

D. Crematories will bear the cost of any pertinent fee imposed by the Office

F. Consumers will benefit from a regulatory program designed to protect the public through the administration of standards and ethics. State regulators will provide recourse for consumers aggrieved by actions in violation of pertinent laws and regulations.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Patricia Tress, Acting Director, Office of Cemetery Oversight, 500 North Calvert Street, Baltimore, MD 21202, or call 410-230-6370, or email to ptress@dlr.state.md.us, or fax to 410-333-6314. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

09.34.05 Crematories — Definitions

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

.01 Scope.

This chapter governs the definition of terms used in COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08, and COMAR 09.34.09.

.02 Definitions.

A. In COMAR 09.34.06, COMAR 09.34.07, COMAR 09.34.08, and COMAR 09.34.09, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Advertisement" means the publication, dissemination, or circulation of any oral or written matter, including labeling, which directly or indirectly tends to induce a person to enter into an obligation or sign a contract.

(2) "Authorizing agent" means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.

(3) "Board" means the Board of Morticians and Funeral Directors.

(4) Consumer.

(a) "Consumer" means an actual or prospective purchaser of consumer services, consumer goods, or consumer credit.

(b) "Consumer" includes an individual directed by the consumer, or properly acting on behalf of a deceased consumer, to inquire about the cost or purchase of cremation services or cremation related goods, or to act on behalf of the consumer.

(5) "Cremated human remains" means all human remains recovered after completion of cremation and the use of pulverizing equipment.

(6) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.

(7) "Cremation container" means a container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.

(8) "Cremator" means the machinery used to cremate human or animal remains.

(9) "Crematory" means a building, portion or a building, or structure that houses the necessary appliances and facilities for cremation.

(10) "Crematory authority" means a legal entity or sole proprietor that has been issued a permit by the Office of Cemetery Oversight to operate as a crematory and perform cremations.

(11) "Embalming" means the disinfection or preserving of human remains by arterial or cavity injection or any other type of preservation.

(12) "Engage in the operation of a crematory" means controlling or managing a crematory.

(13) "Holding facility" means an area, within or adjacent to a crematory, designed for the retention of human remains prior to cremation.

(14) "Human remains" means the body of a deceased person or part of a body or limb that has been removed from a living person.

(15) "Office" means the Office of Cemetery Oversight.

(16) "Permit holder" means the holder of a permit under Business Regulation Article, Title 5, Annotated Code of Maryland, to engage in the operation of a crematory or to act as a registered crematory operator.

(17) "Person" means an individual, receiver, trustee, corporation, limited liability company, or partnership.

(18) "Processed human remains" means the end result of pulverization of cremated human remains, where the residue from the cremation process is cleaned leaving only bone fragments reduced to 5 millimeters or less.

(19) "Registered crematory operator" means an individual registered to operate a crematory as a sole proprietor or on behalf of a sole proprietor or permit holder.

(20) "Responsible party" means a sole proprietor or the individual designated by a corporation, limited liability company, or partnership, which holds a permit to engage in the operation of a crematory, to be responsible for the operations of the crematory.

(21) "Sealable container" means any container in which processed human remains can be placed and sealed so as to prevent leakage of the processed human remains or the entry of any foreign material.

09.34.06 Crematories — Permit and Registration Process and Fees

Authority: Business Regulation Article, §§5-102, 5-204, 5-205, 5-301 through 5-310, 5-312, 5-401 — 5-403, 5-901 — 5-905, Annotated Code of Maryland

.01 Scope.

This chapter governs the permit process for persons who operate a crematory in the State and the fees for crematory and registered crematory operator permits.

.02 Permit Issuing Agency.

A. A person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland, and owns a greater interest in a crematory than a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

B. A person whose ownership interest in a crematory is equal to the ownership interest in the crematory of a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

C. A person who owns a crematory and is neither a licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, nor a registrant or permit holder under Business Occupations

Article, Title 5, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Office.

D. A person who is a licensee or holder of a corporation licensee under Health Occupations Article, Title 7, Annotated Code of Maryland, and owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 7, Annotated Code of Maryland, shall obtain a permit to engage in the operation of a crematory from the Board.

E. An individual, who is designated as the registered crematory operator by a person required to obtain a permit to operate a crematory from the Office, shall obtain a registered crematory operator permit from the Office.

F. All operating crematories and individuals designated as the registered crematory operator required to obtain a permit from the Office shall apply to the Office for a permit within 90 days from the effective date of this regulation.

.03 Permit — Requirements for Permit for a Crematory Owned by a Corporation, Limited Liability Company, or Partnership.

A. A corporation, limited liability company, or partnership shall receive a permit to operate a crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit if the entity:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;
- (5) Provides a list of the officers, directors, members, partners, agents, and employees of the entity applying for the permit;
- (6) Provides a certificate of status, issued by the Maryland Department of Assessments and Taxation, indicating that the entity is in good standing, or its equivalent as determined by the Office, and dated not earlier than 30 days before the date of the application; and
- (7) Provides an affidavit stating that:
 - (a) No federal or State taxes or fees are delinquent; and
 - (b) The corporation, limited liability company, or partnership is financially stable.

.04 Permit — Requirements for Permit for a Crematory Owned by a Sole Proprietor.

A. A sole proprietor applicant for a crematory permit shall receive a permit to operate a crematory in this State if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit if the sole proprietor:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories; and
- (5) Provides an affidavit stating that:
 - (a) No federal or State taxes or fees are delinquent; and
 - (b) The crematory business is financially stable.

.05 Permit — Requirements for Registration for a Registered Crematory Operator.

A. An individual shall register with and receive a permit from the Office as a registered crematory operator if the individual meets the registration requirements of this regulation.

B. An individual shall be registered with the Office as a registered crematory operator if the individual:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Is 18 years old or older;
- (4) Is of good character and reputation and lists the applicant's previous three employers;
- (5) Has achieved certification as a crematory operator by the Cremation Association of North America (CANA) or other certification recognized by the Office;
- (6) Has successfully completed the operator training course of the manufacturer of the cremator located in the crematory with which the applicant is affiliated;
- (7) States the name and mailing address of the crematory with which the applicant is affiliated;
- (8) States whether the crematory with which the applicant is affiliated is owned or controlled by:
 - (a) A corporation;
 - (b) A partnership;
 - (c) A limited liability company; or
 - (d) A sole proprietorship; and
- (9) States whether the applicant is the responsible party for the affiliated crematory.

C. Additional Requirements.

(1) An individual applying for a permit as a registered crematory operator shall provide the Office with a detailed description of activities including, but not limited to, whether the applicant has:

- (a) Had a license, certification, registration, or permit of the type for which the application is being made ever denied, suspended, or revoked by any jurisdiction;
- (b) Been convicted of a felony in any State or federal court;
- (c) Been convicted in any State or federal court of a misdemeanor directly related to the ownership or operation of a crematory;

(d) Had any civil judgments or settlements within the 5 years before applying for a permit which directly related to the ownership or operation of a crematory; or

(e) Been convicted by a court in this State of violating a usury provision under Commercial Law Article, Title 12, Annotated Code of Maryland, or an unfair and deceptive trade practices provision under Commercial Law Article, Title 13, Annotated Code of Maryland.

(2) An applicant shall submit copies of all:

(a) Charging documents which were issued and docket entries for convictions, which occurred before applying for a permit, for a misdemeanor or felony referred to in §C(1)(b), (c), or (e) of this regulation;

(b) Disciplinary actions, judgments, and final orders which occurred or were issued before applying for a permit for any regulatory probation, suspension, or revocation referred to in §C(1)(a) of this regulation; and

(c) Civil judgments or settlements against the applicant within the past 5 years which directly relate to the ownership or operation of a crematory.

(3) An individual applying for a permit, who is designated by the crematory authority as the responsible party, shall state the name and residential address of each employee who sells goods or services to the public while engaging in the operation of a crematory.

D. A registered crematory operator may not be designated as the responsible party for more than two crematories.

E. An individual may be issued permits for affiliations with more than one crematory if each affiliated crematory is owned by the same individual or entity.

F. An individual who will become the registered crematory operator for a crematory which was in operation prior to the effective date of this chapter shall obtain the certification and training required by §B(5) and (6) of this regulation within 90 days from the effective date of this chapter.

.06 Permit — Requirements for Permit for a New Crematory Owned by a Corporation, Limited Liability Company, or Partnership.

A. A corporation, limited liability company, or partnership shall receive a permit to operate a new crematory in this State if the corporation, limited liability company, or partnership meets the permit requirements of this regulation.

B. A corporation, limited liability company, or partnership shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the entity:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories;
- (5) Provides a list of the officers, members, partners, agents, and employees of the entity applying for the permit; and
- (6) Provides an affidavit stating that the corporation, limited liability company, or partnership:
 - (a) Is financially stable; and
 - (b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit.

.07 Permit — Requirements for a New Crematory Owned by a Sole Proprietor.

A. A sole proprietor applicant for a new crematory shall receive a permit to operate if the sole proprietor applicant meets the permit requirements of this regulation.

B. A sole proprietor shall receive a permit from the Office if, at least 30 days prior to the opening of the new crematory, the sole proprietor applicant:

- (1) Completes an application form;
- (2) Pays the nonrefundable application fee and any other fees due under this chapter;
- (3) Provides the name, address, and phone number of each affiliated crematory;
- (4) Designates a registered crematory operator as the responsible party for each affiliated crematory provided that the registered crematory operator may not be designated as the responsible party for more than a total of two crematories; and
- (5) Provides an affidavit stating that the new crematory business:
 - (a) Is financially stable; and
 - (b) Has the ability to continue to operate the crematory business for a 2-year period after issuance of a permit.

.08 Change of Information.

The responsible party shall notify the Office of any change in the information provided in the application for permit for a crematory or for a permit as a registered crematory operator, either before or after the issuance of a permit, within 1 week of the date of the change.

.09 Renewal.

A. A person who has a permit to engage in the operation of a crematory or a permit as a registered crematory operator may renew the permit every 2 years, beginning on a date specified by the Office, in the following manner:

- (1) Complete the renewal application form;
- (2) Pay the nonrefundable renewal fee set forth in Regulation .13 of this chapter;
- (3) Meet the permit requirements under Regulation .03, .04, or .05 of this chapter; and
- (4) Submit the documentation required by Regulation .03, .04, or .05 of this chapter.

B. Before the expiration date of a permit, a permit holder shall complete and return the renewal form, pay the renewal fee, and submit any required documentation. After the expiration date of a permit, if a permit holder has not yet applied for renewal, the permit holder is no longer authorized to engage in the operation of a crematory or to act as a registered crematory operator.

C. If a permit holder completes the renewal application process set forth in §A of this regulation before the expiration date of the permit and the Office does not renew the permit before its expiration date, the permit holder is considered to be actively permitted until receipt from the Office of either a renewed permit or a notice of denial of a permit.

D. If a permit holder applies for renewal of a permit after the expiration date of the permit, the permit holder shall pay the renewal fee plus the late renewal fee under Regulation .13 of this chapter.

.10 Lapsed Permit.

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit in the following manner:

- A. Complete a permit application form;
- B. Pay the permit fee and the late renewal fee under Regulation .13 of this chapter;
- C. Meet the permit requirements under Regulation .03, .04, or .05 of this chapter;
- D. Submit the documentation required by Regulation .03, .04, or .05 of this chapter;
- E. Provide a full written explanation to the Office detailing the reasons why the permit was allowed to expire and why a permit is now sought; and
- F. Submit to the Office an affidavit stating that the person did not engage in the operation of a crematory or act as a registered crematory operator in this State while the permit was lapsed.

.11 Hearings — Permit Denial.

A. Permit Denial. An applicant or permit holder applying for an initial or renewal permit to the Office may be denied the issuance of a permit, subject to the hearing provisions of Business Regulation Article, §5-312, Annotated Code of Maryland.

B. Hearing Before Director of Office.

(1) Except as otherwise provided in this section, all contested cases before the Director of the Office shall be governed by COMAR 09.01.02.

(2) An applicant who has been notified that a new or renewal permit has been or may be denied and who requests a hearing before the Director of the Office must file the request for a hearing not later than 30 days after the notice of proposed action was mailed.

(3) The Director of the Office shall send the hearing notice described in COMAR 09.01.02.07B at least 10 days before the hearing or, if the parties have agreed to a date for which 10 days' notice cannot be given, at the earliest time possible.

(4) The notice to an applicant that a new or renewal permit has been or may be denied shall state that the proposed action of the Director of the Office shall be affirmed if:

(a) A hearing is not requested within 30 days after the date the notice of proposed action was mailed; or

(b) *The applicant fails to appear for the hearing after requesting a hearing.*

(5) *If, after a hearing, the proposed action of the Director of the Office is upheld, the appellant shall pay the hearing costs described in Regulation .12 of this chapter.*

C. *Hearings Delegated by the Office to the Office of Administrative Hearings. All contested case hearings delegated to the Office of Administrative Hearings shall be governed by COMAR 09.01.03.*

.12 Fees.

A. Permit Fees:

- (1) *Permit fee for a Crematory — \$350;*
- (2) *Permit fee for a Registered Crematory Operator — \$300;*
- (3) *Permit renewal fee for a Crematory — \$350;*
- (4) *Permit renewal fee for a Registered Crematory Operator — \$300;*
- (5) *Late renewal fee — \$200;*
- (6) *Other Fees:*
 - (a) *Replacement of permit — \$50;*
 - (b) *Returned check fee — \$50;*
 - (c) *Additional copy of permit — \$50;*
 - (d) *Business name change — \$50;*
 - (e) *Personal name change — \$50;*
 - (f) *Business address change — \$50;*
 - (g) *Annual preneed sales trust report — \$25*

B. *Hearing costs described in Business Regulation Article, §5-312(h), Annotated Code of Maryland, shall be determined to be the cost of a court reporter and the transcripts ordered by the Office, or by the Office of the Attorney General, for the purpose of presenting a case alleging violation of Business Regulation Article, Title 5, Annotated Code of Maryland, before the Office or before the Office of Administrative Hearings.*

.13 Display of Permit.

A permit holder shall display the permit conspicuously, in a public area at each business address of the permit holder.

09.34.07 Crematories — Inspections, Complaints, and Discipline

Authority: Business Regulation Article, §§5-204, 5-310 and 5-311, Annotated Code of Maryland

.01 Scope.

This chapter governs crematory inspections, the complaint process, and grounds for discipline and penalties.

.02 Inspection by the Office.

A. *A crematory shall be open for inspection by a representative of the Office at any time during operating hours.*

B. *Each crematory shall be inspected:*

- (1) *On a biennial basis;*
- (2) *In furtherance of an investigation; or*
- (3) *Upon the sale or change of ownership of the crematory.*

C. *Inspection results shall be written on forms approved by the Office.*

D. *A permit holder shall be available to accompany the inspector during the inspection and sign the inspection report.*

E. *A crematory shall maintain the following minimum standards:*

(1) *The premises shall be maintained in a sanitary manner, except in an emergency, life-threatening situation, where it is not feasible or practicable to comply with Centers for Disease Control's guidelines on universal precautions;*

(2) *Except by express, written consent of the authorizing agents to perform simultaneous, multiple cremations, there shall be no more than one human body cremated in a single cremator at a time;*

(3) *Each cremator shall be cleaned completely after each cremation;*

(4) *There shall be no co-mingling of human bodies and pets in refrigeration units or in vehicles transporting the human bodies or pets;*

(5) *Separate cremators shall be dedicated for the cremation of human bodies and the cremation of pets;*

(6) *A burial transit permit pertaining to the deceased shall be an original document;*

(7) *Each crematory shall have a sink with hot and cold water in close proximity to the cremator and the necessary equipment to permit the floor in the area of the cremator to be cleaned with water;*

(8) *The name of the deceased shall be visible on the outside of the cremation container;*

(9) *Human remains shall be properly stored prior to cremation;*

(10) *Mechanical pulverizing equipment used by a crematory shall meet industry standards and be cleaned as thoroughly as possible between each use;*

(11) *A mortar and pestle shall be used for pulverization of cremated human remains when the amount of cremated human remains is insufficient to pulverize in mechanical pulverizing equipment;*

(12) *Separate pulverizing drums shall be dedicated for cremated human remains and cremated pet remains;*

(13) *Prior to pulverization, the mechanical pulverizer shall be clamped;*

(14) *A crematory may not refuse to release cremated human remains pending payment of outstanding fees;*

(15) *Within 6 months of the effective date of this chapter, cremators shall be retrofitted, if necessary, with safety devices that will prevent the automatic door from dropping prematurely;*

(16) *There shall be no portable fans used in the area of the cremator or pulverizing equipment;*

(17) *There shall be a minimum of 6 inches between a cremator smoke stack and the roof of the crematory; and*

(18) *Each cremator must have a warning sign, visible on the front of the cremator, stating "No leaning past the door of the cremator."*

F. *The following forms shall be available for inspection, with a copy given to the inspector for the inspector's records:*

- (1) *Cremation authorization form;*
- (2) *Delegation of authority form;*
- (3) *Receipt for human remains;*
- (4) *Record of cremation;*
- (5) *Certificate of cremation;*
- (6) *Return of human cremated remains certificate; and*
- (7) *Burial transit permit.*

.03 Crematory Inspection Report, Deficiencies, and Penalties.

A. *The representative of the Office performing the inspection shall, upon completion of the inspection:*

(1) *Apprise the permit holder of the findings of the inspection; and*

(2) *Provide the permit holder or a representative of the permit holder with a copy of the inspection report.*

B. *The permit holder or representative of the permit holder shall sign the inspection report and provide written verification of receipt of the inspection report.*

C. *The Director of the Office shall review the inspection report and make a determination as to whether a deficiency exists.*

D. If the Director of the Office finds that a deficiency exists based on the inspection, notice of the deficiency or failure to pass the inspection shall be sent to the crematory permit holder within 30 days of completion of the inspection.

E. If a permit holder passes an inspection, the permit holder shall prominently display, in public view on the premises, a statement issued by the Office that the crematory has successfully passed an inspection.

F. Correction of Deficiency.

(1) Except as provided in this section, a crematory permit holder shall correct a deficiency within 30 days after receipt of notification or within the time frame specified by the Office, whichever is sooner.

(2) The Office may require immediate correction of a deficiency if the agency considers the correction necessary in the interest of public health.

(3) The crematory permit holder may request an extension of time within which to correct a deficiency.

(4) The Office may approve an extension of time for correction of a deficiency.

(5) Upon completion of the correction of all deficiencies, the crematory permit holder shall notify the Office.

(6) Upon notification by the crematory permit holder of the correction of all deficiencies:

(a) A representative of the Office shall re-inspect the crematory; and

(b) The Office shall provide the crematory permit holder with a copy of the re-inspection report within 30 days.

(7) If re-inspection reveals additional deficiencies not cited in the first report, the crematory permit holder shall correct those deficiencies in the time period specified by the Office unless an extension of time for correction of the additional is requested by the crematory permit holder and approved by the Office.

G. Penalties.

(1) Failure to allow an inspection of the crematory shall:

(a) Be deemed a threat to the public health, safety, or welfare requiring immediate action; and

(b) Result in immediate suspension of a crematory permit and the permit of the registered crematory operator designated as the responsible party for the crematory, as provided under State Government Article, §10-226(c)(2), Annotated Code of Maryland, subject to a subsequent opportunity for a hearing pursuant to Business Regulation Article, §5-312, Annotated Code of Maryland.

(2) Failure to comply with a notice to correct deficiencies or violations within the required time period, or any reasonable extension granted by the Office, shall:

(a) Be deemed a threat to the public health, safety, or welfare requiring immediate action; and

(b) Result in an immediate suspension of a crematory permit and the permit of the registered crematory operator designated as the responsible party for the crematory under State Government Article, §10-226(c)(2), Annotated Code of Maryland, or the denial of a renewal of a crematory permit and the permit of the registered crematory operator designated as the responsible party for the crematory, subject to a subsequent opportunity for a hearing pursuant to Business Regulation Article, §5-312, Annotated Code of Maryland.

.04 Complaints.

A. A complaint regarding a crematory authority or a registered crematory operator under the jurisdiction of the Office shall be filed by the complainant with the Office on a form devised by the Office.

B. A complaint regarding a crematory authority or a registered crematory operator shall be filed in compliance with the provisions

of Business Regulation Article, §5-311(b), Annotated Code of Maryland.

C. A complaint regarding a crematory authority or a registered crematory operator shall be processed in accordance with the provisions of Business Regulation Article, §5-311(c) — (h), Annotated Code of Maryland.

.05 Investigations.

The Office and the Board may share investigative information and conduct joint investigations.

.06 Grounds for Discipline and Penalties.

A. Subject to the hearing provisions of Business Regulations Article, §5-312, Annotated Code of Maryland, the Director of the Office of Cemetery Oversight may deny a crematory permit or registered crematory operator permit to an applicant, reprimand any person required to obtain a crematory permit or registered crematory operator permit, or suspend or revoke a crematory permit or registered crematory operator permit if an applicant or permit holder, or an agent, employee, officer, director, or partner of the applicant or permit holder for the reasons set forth in Business Regulation Article, §5-310, Annotated Code of Maryland.

B. The Director of the Office may seek the remedies and may impose the penalties set forth in Business Regulation Article, Title 5, Annotated Code of Maryland, for violations of that Title.

09.34.08 Crematories — Cremation Procedures

Authority: Business Regulation Article, §5-204, Annotated Code of Maryland

.01 Scope.

This chapter governs the procedures to be followed by a permit holder in performing a cremation in this State.

.02 Removal, Identification, and Transportation of Human Remains.

A. Immediately prior to placing human remains in a cremator, the crematory authority's designee shall:

(1) Verify that the information on the wrist tag of the human remains is consistent with the documentation accompanying the human remains and consistent with the visual observation of the human remains; and

(2) Inspect for and remove any foreign objects contained with the remains.

B. Materials identifying the human remains placed in the custody of a crematory authority shall contain the following information:

(1) Name of deceased;

(2) Date of death;

(3) Date of birth;

(4) Name and relationship of authorizing agent to the deceased;

(5) Gender; and

(6) Name of authorizing agent or funeral establishment engaging crematory services.

C. If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in §A of this regulation.

D. A crematory authority may not accept unidentified human remains for cremation.

.03 Cremation Container.

A. A cremation container shall:

(1) Be a readily combustible, stackable container suitable for cremation;

(2) Provide a completely enclosed covering for the human remains;

- (3) Be resistant to leakage or spillage;
- (4) Be of sufficient strength and rigidity for ease of handling;
- (5) Provide protection to the health and safety of crematory establishment personnel; and
- (6) Comply with governmental emissions regulations.

B. A cremation container may not be composed of metal or polyethylene.

.04 Holding Facilities.

A holding facility shall:

- A. Comply with applicable public health laws;
- B. Preserve the dignity of human remains;
- C. Recognize the integrity, health, and safety of crematory establishment personnel; and
- D. Be secure from access by unauthorized persons.

.05 Holding Remains.

A. Unless prevented by emergency circumstances, human remains that have been designated for cremation shall be cremated by a crematory authority within 48 hours after receipt.

B. A crematory authority may not hold human remains for cremation unless the human remains are contained within an individual, rigid, stackable, closed cremation container.

C. A crematory authority may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

D. Whenever a crematory authority is unable to cremate human remains within 48 hours of taking custody thereof due to emergency circumstances, the crematory authority shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40°F or less, unless the remains have been embalmed.

.06 Cremation Authorization.

A. Except as otherwise provided in this regulation, a crematory authority may not cremate human remains until:

- (1) The body has been identified as required by Health Occupations Article, §7-411, Annotated Code of Maryland;
- (2) The crematory has received:
 - (a) A cremation authorization on a form approved by the Office and signed by an authorizing agent;
 - (b) If applicable, a written delegation document or facsimile; and
 - (c) Any other documentation required by federal, State, or local law; and
- (3) The crematory authority has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

B. The cremation authorization form shall be provided by the crematory authority to the authorizing agent, shall be signed by the authorizing agent, and shall contain the following information:

- (1) The identity of the human remains;
- (2) Date of death;
- (3) The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;
- (4) Authorization for the crematory authority to cremate the human remains;
- (5) Authorization to verify that the following have been removed prior to cremation:
 - (a) Implanted pacemaker or defibrillator; or
 - (b) Any other materials that the crematory authority deems should be removed to prevent harm to the public health or damage to equipment;
- (6) A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and

(7) The name and address of the person authorized to claim the cremated remains from the crematory authority or accept the cremated remains via registered mail.

C. If an authorizing agent is not available to execute the cremation authorization form, the authorizing agent may delegate that authority to another individual in writing, or if located outside the area, by sending the crematory authority a signed, notarized statement, electronically or by facsimile device, that contains the name, address, and relationship of the sender to the deceased and the name and address of the individual to whom authority is delegated.

D. Upon receipt of the written delegation document or a copy of the delegation statement transmitted electronically or by facsimile device, the crematory authority shall allow the named individual to serve as the authorizing agent.

E. A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.

F. A crematory authority shall maintain a copy of every cremation authorization form required under this regulation as permanent records.

G. Cremation authorization records are subject to inspection and copying by the Office.

.07 Record of Receipt of Remains.

A. A crematory authority shall provide to an individual who delivers human remains for cremation a receipt signed by both the crematory authority and the person who delivered the human remains that includes the:

- (1) Name of the individual from whom the human remains were received and the name of the individual's employer, if any;
 - (2) Name and address of the crematory authority;
 - (3) Name and address of the deceased;
 - (4) Gender of the deceased;
 - (5) Date of death of deceased; and
 - (6) Verification of authorized burial transit permit.
- B. The crematory authority shall maintain a record of each cremation, which shall include the:
- (1) Name of the deceased;
 - (2) Date of birth of the deceased;
 - (3) Date of death of the deceased;
 - (4) Gender of the deceased;
 - (5) Name and address of the authorizing agent;
 - (6) Date, time, and location of cremation; and
 - (7) Name of the individual who performed the cremation.

C. The crematory authority shall provide a certificate of disposition of cremated human remains to the authorizing agent that contains the:

- (1) Name of the deceased;
- (2) Name of the authorizing agent;
- (3) Date, time, and location of cremation;
- (4) Name of the individual who performed the cremation;
- (5) Name and address of the person who received the cremated human remains from the crematory authority; and
- (6) If ascertainable, the location, including the name of the cemetery and plot location if the remains are interred, the manner, and the date of the disposition of the cremated human remains.

D. The crematory authority shall maintain a copy of every record and receipt required by this regulation as permanent records.

E. All records required to be maintained by a crematory authority by this regulation are subject to inspection and copying by the Office.

.08 Use of a Casket; Embalming.

A. Except as provided in §B of this regulation, a crematory authority may not:

- (1) Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;
- (2) Refuse to accept human remains for cremation because the remains are not in a casket; or
- (3) Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may request the authorizing agent or funeral establishment engaging the services of the crematory authority to remove the metal mattress holder in the casket.

B. Human remains delivered to a crematory authority may not be removed from the cremation container and the cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests that the human remains be placed in the cremator without enclosure in a cremation container.

C. A crematory authority may not require that human remains be subjected to embalming before cremation.

.09 Identification of Human Remains Immediately Prior to Cremation.

A. Immediately prior to being placed within the cremator, the identification of the human remains shall be verified by the designee of the crematory authority and the identification tag of the human remains being cremated shall be placed on the outside of the cremator, where it shall remain in place until the cremation process is complete.

B. The designee of the crematory authority who is operating the cremator may not leave the immediate area of the cremator during the cremation process.

.10 Disposition of Cremated Human Remains.

A. Upon completion of the cremation, insofar as is possible, all of the recoverable residue of the cremation process shall be removed from the cremation chamber and, except for medical devices remaining after the completion of the cremation process, placed in a container.

B. Medical devices which remain after the completion of the cremation process shall be treated as medical waste and disposed of accordingly.

C. The identification tag required to be placed on the outside of the cremator by Regulation .09 of this chapter shall be placed in the container with the cremated human remains.

D. After pulverization of the cremated human remains, all of the processed human remains, together with the identification tag, shall be placed in a sealable container.

E. If all of the processed human remains and the identification tag will not fit within the dimensions of a sealable container, the remainder of the processed human remains shall be returned to the authorizing agent, or the agent's representative, in a separate, sealable container.

F. If the processed human remains and identification tag do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the processed human remains and then securely closed.

G. If a sealable container containing processed human remains is to be shipped, the sealable container shall:

- (1) Be placed within a separate sturdy box with all box seams securely taped closed; and
- (2) Have the name of the deceased person whose processed human remains are contained therein legibly written on the outside of the container.

H. If processed human remains have been in the possession of a crematory authority, as originally authorized by the authorizing

agent, without instructions for disposition, for a period of 10 days or more from the date of cremation, the crematory authority may send the processed human remains, by certified mail, return receipt requested, to the authorizing agent.

09.34.09 Crematories — Code of Ethics

Authority: Business Regulation Article, §§5-204 and 5-310, Annotated Code of Maryland

.01 Scope.

This chapter governs any person who holds a permit to engage in the operation of a crematory or to act as a registered crematory operator.

.02 General Professional Practices.

A. A permit holder shall:

- (1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;
- (2) Conduct business in a reasonable, usual, and customary manner;
- (3) Comply with the State public health laws as set forth in the Health-General Article, §§4-215 and 5-501 et seq., Annotated Code of Maryland;
- (4) Comply with the Commercial Law Article, Titles 12 and 13, Annotated Code of Maryland;
- (5) Implement and follow through on all arrangements agreed upon between a consumer and the crematory;
- (6) Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;
- (7) Comply with the State laws for cremation;
- (8) Be sensitive and responsive to the bereavement needs of a decedent's family;
- (9) Provide a general price list that can be retained to anyone who, in person, requests pricing information regarding cremation related goods or services; and
- (10) Provide accurate information from the general price list to any person who requests information, by telephone, regarding cremation related goods or services.

B. A permit holder may not:

- (1) Place advertisements that include statements:
 - (a) Containing misrepresentation of facts;
 - (b) Likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
 - (c) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or
 - (d) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent person to misunderstand or be deceived;
- (2) Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
- (3) Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance which has not been prescribed by a physician.

PATRICIA TRESS
Acting Director
Office of Cemetery Oversight

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 07 HOSPITALS

10.07.14 Assisted Living Programs

Authority: Health—General Article, §19-1805, Annotated Code of Maryland

Notice of Proposed Action

[12-082-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .13, .24, and .29 under **COMAR 10.07.14 Assisted Living Programs**.

Statement of Purpose

The purpose of this action is to allow a competent resident to administer medications to their domestic partner if both parties reside in the same assisted living facility.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.13 Administration.

A. Quality Assurance.

(1) (text unchanged)

(2) Quality Assurance Plan.

(a) The assisted living manager and the delegating nurse shall meet at least every 6 months to review the:

(i)—(iii) (text unchanged)

(iv) Written recommendations or findings of the consultant pharmacist, as required by Regulation [.29I] .29J of this chapter.

(b) (text unchanged)

B.—C. (text unchanged)

.24 Resident Agreement — General Requirements and Nonfinancial Content.

A.—C. (text unchanged)

D. The resident agreement shall include provisions, which include at a minimum:

(1)—(7) (text unchanged)

(8) Admission and discharge policies and procedures including:

(a)—(d) (text unchanged)

(e) In a unit in which more than one resident is the contracting party, the terms under which the agreement may be

modified in the event of one of the resident's discharge or death, including provisions for termination of the agreement and appropriate refunds; [and]

(9) Obligations of the licensee, the resident, or the resident's representative as to:

(a) (text unchanged)

(b) The monitoring of the health status of the resident[.];

and

(10) A policy on the administration of medications by a spouse or domestic partner to their spouse or domestic partner, when both parties reside in the same assisted living program.

E.—F. (text unchanged)

.29 Medication Management and Administration.

A.—C. (text unchanged)

D. An assisted living manager shall ensure that the resident's initial assessment process identifies whether a resident:

(1)—(2) (text unchanged)

(3) Requires that medications be administered by the assisted living program staff or by a spouse or domestic partner of the resident in accordance with §F of this regulation.

E. (text unchanged)

F. While residing in the same assisted living facility as their spouse or domestic partner, a resident may administer medications to their spouse or domestic partner providing the following documentation is maintained in the resident's record:

(1) An initial assessment by their health care provider documenting the resident's competency and ability to safely administer medications to their spouse or domestic partner;

(2) Quarterly assessments by the delegating nurse documenting the resident's continued ability to safely administer medications to their spouse or domestic partner; and

(3) Current signed medical orders.

[F.] G. Medication Review Upon Admission.

(1) The assisted living manager shall consult within 14 days of a resident's admission with the individuals set forth in [§F(2)] §G(2) of this regulation to review a new resident's medication regime.

(2) (text unchanged)

[G.] H. The purpose of the review required by [§F] §G of this regulation is to review with the assisted living manager or designee:

(1)—(4) (text unchanged)

[H.] I. The assisted living manager, or designee, shall ensure that the review required by [§F] §G of this regulation is documented in the resident's records, including any recommendations given by the reviewer.

[I.] J. Pharmacy Review.

(1)—(3) (text unchanged)

[J.] K. The person conducting the on-site review under [§F or I] §G or J of this regulation shall recommend changes, as appropriate, to the appropriate authorized prescriber and the assisted living manager or designee.

[K.] L.—[M.] N. (text unchanged)

[N.] O. Required Documentation.

(1) A staff member shall record the documentation required under [§L] §M of this regulation for all residents for whom medications are administered, or who receive assistance in taking their medications, as defined by Regulation .02B(3)(b) of this chapter, at the time that the resident takes or receives medications.

(2) A staff member shall record the documentation required under [§L] §M of this regulation for residents who self-administer:

(a)—(b) (text unchanged)

[O.] P. (text unchanged)

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 18 HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

10.18.08 HIV Counseling and Testing Procedures

Authority: Health-General Article, §18-338.3, Annotated Code of Maryland

Notice of Proposed Action [12-084-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .11 and .12 under **COMAR 10.18.08 HIV Counseling and Testing Procedures**.

Statement of Purpose

The purpose of this action is to bring the regulations into compliance with Health-General Article, §18-338.3, Annotated Code of Maryland, as amended by Ch. 330, Acts of 2005, which became effective October 1, 2005, and made significant changes to the provision of counseling and consent for HIV testing in the context of certain occupational exposures.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dnhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.11 Health Care Providers, First Responders, and Public Safety Workers — HIV Exposure.

A. Definition.

(1) In this regulation, the following term has the meaning indicated.

(2) "Infection preventionist or employee health provider" means the designated infectious disease/communicable disease officer of a hospital.

B. A health care provider, first responder, or public safety worker involved in an exposure as defined in Health-General Article, §18-338.3, Annotated Code of Maryland, shall comply with the provisions of Health-General Article, §18-338.3, Annotated Code of Maryland.

C. A hospital's designated infection preventionist or employee health provider or its designee shall follow the requirements in Health-General Article, §18-338.3, Annotated Code of Maryland, if an exposure, as defined in Health-General Article, §18-338.3, Annotated Code of Maryland:

(1) Occurs:

(a) In a hospital, between a patient and a health care provider; or

(b) Before admission of the patient to a hospital, between a patient and a:

(i) First responder; or

(ii) Public safety worker; and

(2) Is such that, in accordance with the Centers for Disease Control and Prevention recommendations, warrants recommending or offering chemoprophylaxis treatment for the health care provider, first responder, or public safety worker.

.12 Information on Exposures.

A. A hospital where an exposure occurred shall:

(1) Maintain a confidential record or incident report for an HIV test conducted under Regulation .11 of this chapter;

(2) Adopt procedures for the confidential HIV testing of blood samples or other body fluids used or collected for purposes of Regulation .11 of this chapter;

(3) Maintain a record of:

(a) An exposure as defined by Health-General Article, §18-338.3(a), Annotated Code of Maryland; and

(b) A refusal to consent by a patient as described in the Health-General Article, §18-338.3(b)(2)(ii), Annotated Code of Maryland; and

(4) Provide records as specified in §A(3) of this regulation or information from the records to the Department when and as requested by the Secretary.

B. Nothing in Regulation .11 of this chapter or this regulation shall be construed to exempt any individual or entity required to report infectious diseases from reporting the infectious diseases as required in Health-General Article, Title 18, Annotated Code of Maryland.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Notice of Proposed Action

[12-079-P]

The Secretary of Health and Mental Hygiene proposes to:

(1) Repeal Regulation .01, adopt new Regulations .01 and .10, and recodify existing Regulations .10 — .12 to be Regulations .11 — .13 under **COMAR 10.29.01 Hearing Procedures**;

(2) Adopt new Regulations .01 and .02 under a new chapter, **COMAR 10.29.16 Crematories — Definitions**;

(3) Adopt new Regulations .01 — .10 under a new chapter, **COMAR 10.29.17 Crematories — Permit, Licensing, and Fees**;

(4) Adopt new Regulations .01 — .06 under a new chapter, **COMAR 10.29.18 Crematories — Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties**;

(5) Adopt new Regulations .01 — .12 under a new chapter, **COMAR 10.29.19 Crematories — Cremation Procedures**; and

(6) Adopt new Regulations .01 and .02 under a new chapter, **COMAR 10.29.20 Crematories — Code of Ethics**.

This action was considered by the Board of Morticians and Funeral Directors at a public meeting on November 9, 2011, notice of which was given by publication in 38:22 Md. R. 1389 (October 21, 2011), pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland, and at a public meeting on December 14, 2011, notice of which was given by publication in 38:25 Md. R. 1676 (December 2, 2011), pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Establish sanctioning guidelines for the Board to use when imposing discipline on a licensee for violating the Maryland Morticians and Funeral Directors Act or COMAR 10.29;
- (2) Establish requirements for individuals to apply for a permit to operate a crematory, for a license to be a crematory supervisor or for a certification to be a crematory technician;
- (3) Establish an application process for an individual to receive a permit to operate a crematory, a license to be a crematory supervisor, or to be certified as a crematory technician;
- (4) Establish the duties of a crematory supervisor;
- (5) Allow an individual to act as an interim crematory supervisor;
- (6) Prohibit a crematory from operating without a crematory supervisor or an interim crematory supervisor;
- (7) Establish a renewal process for permit holders, licensees and certification holders;
- (8) Establish application fees for a permit, license, and certification, a renewal fee for a supervisor license and technician certification, a late fee, a reinstatement fee, and a replacement fee for a lost or damaged permit, license or certification;
- (9) Establish an inspection process for crematories, including minimum standards for operation;
- (10) Prohibit certain acts and establishing a code of ethics for permit holders, supervisors and technicians;
- (11) Establish a process by which deficiencies can be determined and corrected;
- (12) Establish penalties for certain acts relating to inspections and correction of deficiencies;
- (13) Establish a complaints process; and
- (14) Establish a procedure for cremating human remains, including removal, transportation, and identification of human remains.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Board of Morticians and Funeral Directors will incur expenses as a result of establishing a new licensure program, permitting program, and certification program, reviewing applications, responding to inquiries, maintaining files and a data system, handling disciplinary actions, etc. A moderate fee will be imposed on crematory operators, crematory supervisors, and crematory technicians to offset the cost of these services. The Board has been approved to hire additional staff to carry out the required functions of this proposal which will be paid for using existing resources. There could be some income generated from penalties under COMAR 10.29.18.06.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+)	17,000
	(E+)	\$30,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	

Benefit
Cost (-) (+)
Magnitude

D. On regulated industries or trade groups:	(-)	\$17,000
E. On other industries or trade groups:	(-)	Unquantifiable
F. Direct and indirect effects on public:	(+)	Unquantifiable
	(-)	Unquantifiable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Additional staff costs will be only a contractual inspector, Grade 14, whose duties will be split between crematories (1/5) and funeral establishments (4/5). The cost of this position will be borne through fees established in this regulation and existing monies already in the budget.

D. The Board estimates that it will issue 30 permits to operate a crematory, 10 licenses for crematory supervisors, and 60 crematory technician certifications (of which half will pay the \$100 fee, and half will pay the \$50 fees for having more than three technicians in a single crematory). The estimated amount of permits is different from crematory supervisors because a permit holder may choose to also be the supervisor and will not be charged the supervisor fee.

\$350 × 30 permits = \$10,500

\$200 × 10 supervisor licenses = \$2,000

\$30 × 100 technicians without additional techs = \$3,000

\$30 × 50 additional techs beyond 3 = \$1,500

Totals:

\$10,500+\$2,000+\$3,000+\$1,500 = \$17,000

E. The impact to other industries, to the extent that a crematory could pass on the cost of the additional fees to a mortician using their service, would be unquantifiable at this time.

F. The impact on the public, to the extent that a permit holder could pass on the cost of the fees to consumers through price increases, is unquantifiable at this time. The public would, however, have the knowledge that the crematory is following specified standards and the staff are professionals with appropriate training.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dnhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

10.29.01 Hearing Procedures

Authority: Health Occupations Article, §§[7-205(1)] 1-606, 7-205(a)(1) and (c), and 7-316, Annotated Code of Maryland

.01 Scope.

A. This chapter governs procedures for disciplinary matters and hearings before the Maryland State Board of Morticians and Funeral

Directors and establishes the standards for use as a guide for the imposition of disciplinary sanctions against any of the following under jurisdiction of the Board:

(1) A licensed mortician, funeral director, apprentice, surviving spouse, funeral establishment, corporation, crematory supervisor, or executor;

(2) A courtesy card holder;

(3) A holder of a permit to operate a crematory; and

(4) A certified crematory operator or crematory technician.

B. If after a hearing, the Board finds that there are grounds under Health Occupations Article, §7-316, Annotated Code of Maryland, to sanction any person listed in §A of this regulation by way of probation, reprimand, suspension, fine, or revocation, the Board may consider aggravating and mitigating factors in determining sanctions.

.10 Sanctioning Guidelines.

A. General Application.

(1) This regulation shall be used by the Board as a guide for sanctioning pursuant to the Board's authority under Health Occupations Article, §§7-205 and 7-316, Annotated Code of

Maryland, for violations of the Morticians and Funeral Directors Act and the Board's regulations.

(2) The Board is not required to make findings of fact with respect to any of the factors for determining the sanction indicated by the sanctioning guidelines.

(3) A departure from the sanctioning guidelines alone is not a ground for any hearing or appeal of a Board action.

(4) Notwithstanding these sanctioning guidelines, in order to resolve a disciplinary matter, the Board and the offending person may agree to surrender a license, courtesy card, permit, or certificate, or agree to a Consent Order with terms, conditions and sanctions agreed upon.

(5) In a case where there are multiple and distinct violations, the Board may impose a sanction greater than the maximum indicated by the sanctioning guidelines for each individual violation.

(6) If probation is imposed, the Board may impose appropriate terms and conditions of probation. Violations of the terms or conditions may cause the Board to take further disciplinary action.

(7) In the event a violation does not fall within the sanction range, the Board shall so indicate and use its best judgment to determine the appropriate sanction and consider, to the extent possible, the factors in the sanctioning guidelines.

B. Range of Sanctions.

VIOLATION	MINIMUM SANCTION	MAXIMUM SANCTION	MINIMUM PENALTY	MAXIMUM PENALTY
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another	Reprimand	Revocation/Denial of License	\$0	\$5,000
(2) Fraudulently or deceptively uses a license	Active Suspension for 1 year	Revocation	\$0	\$5,000
(3) Commits fraud or misrepresentation in the practice of mortuary science	Active Suspension for 1 year	Revocation	\$0	\$5,000
(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude	Probation for 1 year	Revocation/Denial of License	\$0	\$5,000
(5) Aids or abets an unauthorized person in the practice of mortuary science specifically in embalming without a license	Active suspension for 90 days	Revocation	\$0	\$5,000
(6) Aids or abets an unauthorized person in the practice of mortuary science, specifically in making arrangements	Active suspension for 90 days	Revocation	\$0	\$5,000
(7) Advertises falsely or in a misleading manner	Reprimand	Active suspension for 60 days	\$0	\$500
(8) Solicits mortuary science business, either personally or by an agent, from a dying individual	Active suspension for 30 days	Active suspension for 1 year	\$0	\$1,500
(9) Directly or indirectly pays or offers to pay to obtain mortuary science business	Active suspension for 30 days	Active suspension for 1 year	\$0	\$1,500
(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there	Reprimand	Active suspension for 30 days	\$0	\$500
(11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody	Active suspension for 30 days	Revocation	\$2,500	\$5,000
(12) At the time funeral arrangements are made, fails to give the contract required by Health Occupations Article, §7-404, Annotated Code of Maryland	Reprimand	Active suspension 15 days	\$0	\$250

(13) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition	Reprimand	Active suspension for 1 year	\$0	\$5,000
(14) Practices mortuary science under a name other than the name that appears on the license of that person or the name of a partnership in accordance with Health Occupations Article, §7-401, Annotated Code of Maryland	Reprimand	Probation	\$0	\$500
(15) Violates any provision of this title or of the laws relating to cremation	Reprimand	Revocation	\$0	\$5,000
(16) Is disciplined by a licensing or disciplinary authority of any other state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes	Reprimand	Revocation	\$0	\$5,000
(17) Willfully makes or files a false report or record in the practice of mortuary science	Reprimand	Revocation	\$0	\$5,000
(18) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report	Reprimand	Revocation	\$0	\$5,000
(19) Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance or other drug that is in excess of therapeutic amounts or without valid medical indication	Probation	Revocation	\$0	\$5,000
(20) Is professionally, physically, or mentally incompetent	Probation	Revocation	\$0	\$5,000
(21) Commits an act of unprofessional conduct in the practice of mortuary science	Probation	Revocation	\$0	\$5,000
(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the person is licensed and qualified to render because the individual is HIV positive;	Probation	Active suspension for 30 days	\$0	\$5,000
(23) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with CDC guidelines on universal precautions	Reprimand	Active Suspension for 30 days	\$0	\$5,000
(24) Fails to allow an inspection under Health Occupations Article, §7-205, Annotated Code of Maryland	Probation	Active suspension for 30 days	\$0	\$2,500
(25) Fails to comply with inspection requirements in the time specified by the Board	Reprimand	Probation	\$0	\$250
(26) Signs an application for a funeral establishment if the signer knew or should have known that grounds existed for which the funeral establishment license was later denied	Reprimand	Revocation	\$0	\$5,000

C. Mitigating and Aggravating Factors. Depending on the facts and circumstances of each case, and to the extent that they apply, the Board may consider the following mitigating and aggravating factors in determining whether the sanction in a particular case should fall outside of the range of sanctions established by the guidelines. These factors may include, but are not limited to the following:

(1) Mitigating Factors:

- (a) Absence of a prior disciplinary record;*
- (b) The licensee reported the violation to the Board;*
- (c) The licensee voluntarily admitted violation, provided full disclosure to the Board, and cooperated during Board proceedings;*
- (d) The licensee implemented remedial measures to correct or mitigate harm arising from the violation;*
- (e) The licensee made a timely good-faith effort to make restitution or otherwise rectify the consequences of the violation;*
- (f) Evidence of rehabilitation or potential for rehabilitation;*
- (g) Absence of premeditation to commit the violation;*
- (h) Absence of potential harm to or adverse impact on the public;*
- (i) Isolated incident and not likely to recur; and*
- (j) The licensee's prior community service and present value to the community.*

(2) Aggravating Factors:

- (a) Previous criminal or administrative disciplinary history;*
- (b) The violation was committed deliberately or with gross negligence or recklessness;*
- (c) The violation had the potential for, or caused, serious harm;*
- (d) The violation was part of a pattern of detrimental conduct;*
- (e) The licensee was motivated to perform the violation by his or her financial gain;*
- (f) The vulnerability of the bereaved;*
- (g) The licensee attempted to conceal the violation, falsified or destroyed evidence, or presented false testimony or evidence;*
- (h) The licensee failed to cooperate with the Board's investigation; and*
- (i) Previous attempts at rehabilitation were unsuccessful.*

10.29.16 Crematories — Definitions

Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland

.01 Scope.

This chapter defines terms used in COMAR 10.29.17 — COMAR 10.29.20.

.02 Definitions.

A. Terms Defined.

B. In COMAR 10.29.17 — COMAR 10.29.20, the following terms having the meanings indicated.

- (1) "Advertising" has the same meaning as in COMAR 10.29.12.*
- (2) "Authorizing agent" means an individual legally entitled to order the cremation of human remains or legally authorized to control the final disposition of human remains.*
- (3) "Board" means Board of Morticians and Funeral Directors.*
- (4) "Consumer" includes a funeral establishment contracting with a crematory or the designated next of kin of a decedent contracting with a crematory.*
- (5) "Cremains" means all human remains recovered, after completion of cremation and the use of mechanical pulverizing equipment.*

(6) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process and may include pulverization.

(7) "Cremation container" means a container in which human remains are sent to the crematory and then placed in the cremation chamber for cremation.

(8) "Cremator" means the machinery within which the process of cremation of human remains begins.

(9) "Crematory" means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

(10) "Crematory supervisor" means the permit holder's on-site designee who is:

- (a) Licensed by the Board; and*
- (b) Responsible to the permit holder for the day-to-day operations of the business.*

(11) "Crematory technician" means the individual who is certified by the Board to operate cremation machinery.

(12) "Embalming" means the disinfection and preserving of human remains by arterial or cavity injection or any other type of preservation.

(13) "Engage in the operation of a crematory" means controlling or managing a crematory.

(14) "Holding facility" means an area within or adjacent to the crematory establishment designed for the retention of human remains before cremation that:

- (a) Complies with any applicable public health laws;*
- (b) Preserves the dignity of the human remains; and*
- (c) Recognizes the personal integrity and health of the crematory authority personnel operating the cremation chamber.*

(15) "Human remains" means the body of a deceased person, or part of a body or limb that has been removed from a living person.

(16) "Office" means the Office of Cemetery Oversight.

(17) "Permit" means a license issued by the Board to allow a person to operate a business which engages in the operation of a crematory.

(18) "Permit holder" means:

- (a) The holder of a permit issued under Health Occupations Article, Title 7, Annotated Code of Maryland, to operate a crematory; or*

(b) A crematory supervisor or crematory technician who meets the certification requirements as specified in COMAR 10.29.17.04 and 10.29.18.05, respectively.

(19) "Person" means an individual, personal representative, or a corporation that is the operator of a mortuary science business where the practice of mortuary science is conducted for the corporation by a licensed mortician or funeral director, a partnership, professional association, or limited liability company, each comprised of one or more licensed morticians or funeral directors.

(20) "Processed remains" means the end result of pulverization, where the residue from the cremation process is pulverized leaving only bone fragments reduced to 5 millimeters or less.

(21) "Sealable container" means containers in which cremains can be placed and sealed so as to prevent leakage or the entrance of foreign materials.

10.29.17 Crematories — Permit, Licensing, and Fees

Authority: Health Occupations Article, §§7-101, 7-102, 7-205, 7-314, 7-315, 7-316, and 7-319, Annotated Code of Maryland

.01 Scope.

This chapter governs the crematory permit, licensing process, and fees for persons regulated under Health Occupations Article, Title 7, Annotated Code of Maryland.

.02 Permit — Issuing Agency.

A. Office of Cemetery Oversight. A person shall obtain a permit to engage in the operation of a crematory from the Office:

(1) If the person:

(a) Holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland; and

(b) Owns a greater interest in a crematory than a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland;

(2) If the person's ownership interest is equal to the ownership interest in the crematory of a licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or

(3) If the person who owns the crematory is not:

(a) A licensee or holder of a corporation license under Health Occupations Article, Title 7, Annotated Code of Maryland; or

(b) A registrant or permit holder under Business Regulation Article, Title 5, Annotated Code of Maryland.

B. Board of Morticians and Funeral Directors. A person shall obtain a permit to engage in the operation of a crematory from the Board if the person:

(1) Is a licensee or holder of a corporation license under of the Health Occupations Article, Title 7, Annotated Code of Maryland; and

(2) Owns a greater interest in a crematory than a person who holds a permit or registration under Business Regulation Article, Title 5, Annotated Code of Maryland.

.03 Permit — Requirements for Permit.

A. Subject to approval of the Board, a person shall receive a permit to operate a crematory in this State if the person meets the permit requirements of this chapter.

B. A person shall:

(1) Submit an application on a form provided by the Board;

(2) Pay the nonrefundable application fee and any other applicable fees set forth in Regulation .10 of this chapter;

(3) Be of good moral character;

(4) Designate a crematory supervisor who shall be responsible for the day-to-day operation of the business;

(5) Provide a certificate of status, issued by the Maryland Department of Assessments and Taxation:

(a) Indicating that the entity is in good standing, or its equivalent as determined by the Board; and

(b) Dated not earlier than 30 days before the application; and

(6) Comply with all applicable federal, State, and local laws.

C. Operating crematories shall apply to the Board for a permit within 90 days from the effective date of this regulation or be subject to Board action.

D. All crematories under the Board's jurisdiction shall be permitted on or before November 30, 2012.

E. Permitting of a limited liability company is limited to those freestanding facilities where no preneed sales are conducted.

.04 Requirements for Licensure of a Crematory Supervisor.

A. An individual may receive a license from the Board as a crematory supervisor if the individual meets the licensure requirements of this regulation.

B. An individual shall:

(1) Submit an application on a form provided by the Board;

(2) Pay the nonrefundable application fee and any other applicable fees set forth in Regulation .10 of this chapter;

(3) Be 18 years old or older;

(4) Have achieved at least a high school diploma or equivalent;

(5) Be of good moral character;

(6) Have achieved certification by the Cremation Association of North America (CANA) or its equivalent as determined by the Board; and

(7) Have successfully completed the manufacturer operator training course.

C. Duties of a Crematory Supervisor.

(1) The duties of a licensed crematory supervisor shall include, but are not limited to:

(a) Being responsible to the permit holder for the day-to-day operations of the business;

(b) Supervision of the crematory technician;

(c) Verification that the documentation accompanying the deceased is consistent with the visual observation of the deceased before cremation;

(d) Operation of the cremator; and

(e) Verification of the cremains.

(2) A licensed crematory supervisor may not supervise more than one crematory.

D. An individual who will become the crematory supervisor of an operating crematory that has filed an application pursuant to Regulation .03C of this chapter shall become CANA certified within 90 days from the effective date of this regulation or be subject to Board action.

E. A crematory may not operate without a crematory supervisor.

F. Interim Crematory Supervisor.

(1) An individual may act as a crematory supervisor on an interim basis as long as the individual meets the requirements of this regulation.

(2) The permit holder shall immediately notify the Board of the vacancy and the name of the interim crematory supervisor.

(3) An interim crematory supervisor shall act as such for a period not to exceed 90 days after which a permanent replacement shall be in place.

.05 Requirements for Certification of a Crematory Technician.

A. An individual may be certified by the Board as a crematory technician if the individual meets the requirements of this regulation.

B. An individual shall:

(1) Submit an application on a form provided by the Board;

(2) Pay the nonrefundable fee and any other applicable fee set forth in Regulation .10 of this chapter;

(3) Be of good moral character;

(4) Be 18 years old or older;

(5) Have achieved at least a high school diploma or equivalent; and

(6) Provide sworn documentation from the crematory supervisor that the individual has been trained in the:

(a) Operation of the:

(i) Cremation machinery; and

(ii) Pulverizing equipment; and

(b) The crematory procedures as outlined in COMAR 10.29.18.

.06 Change of Information.

The permit holder, crematory supervisor, or crematory technician shall notify the Board of any change in the information provided in the application either before or after the issuance of a permit or license within a reasonable period of time but not to exceed 30 days from the date of the change.

.07 Renewals.

A. Before the expiration date of the permit, license, or certification, a permit holder, crematory supervisor, or crematory technician shall complete and return the renewal form and renewal fee according to §B of this regulation.

B. To renew a permit, license, or certification, a permit holder, crematory supervisor, or crematory technician shall:

(1) Complete the renewal application form;

(2) Pay the renewal fee set forth in Regulation .09 of this chapter; and

(3) Meet the permit, licensure, and certification requirements of this chapter and Health Occupations Article, Title 7, Annotated Code of Maryland.

C. After the expiration date, if an application for renewal of a permit, license, or certification has not been made or if the individual is not in compliance with the tax compliance regulations of COMAR 10.31.02, the individual may not:

(1) Engage in the operation of the crematory;

(2) Act as a crematory supervisor; or

(3) Act as a crematory technician.

D. An individual who engages in the operation of the crematory, acts as a crematory supervisor, or acts as a crematory technician without renewing the required permit, license, or certification is subject to Board action.

E. If a permit holder, crematory supervisor, or crematory technician applies for renewal past the expiration date of the permit license or certification, the individual shall pay the renewal fee plus the late renewal fee set forth in Regulation .09 of this chapter.

.08 Lapsed Permit.

A person who has been issued a permit and who has allowed the permit to lapse for at least 6 months may apply for a permit by doing the following:

A. Completing a permit application form;

B. Paying the permit fee and the late renewal fee set forth in Regulation .09 of this chapter;

C. Meeting the permit requirements under this chapter;

D. Submitting the documentation required by this chapter;

E. Providing a full written explanation to the Board detailing the reasons why the permit was allowed to expire and why a permit is now sought; and

F. Submitting to the Board an affidavit stating that the person did not engage in the operation of a crematory in this State while the permit was lapsed.

.09 Fees.

The following fees are established by the Board:

A. Crematory permit — \$350;

B. Crematory supervisor license — \$300;

C. Crematory technician certification — \$100 each for 3 or fewer persons and \$50 for each additional person;

D. Crematory permit renewal — \$350;

E. Crematory supervisor license renewal — \$300;

F. Crematory technician certification renewal — \$100;

G. Late fee — \$200;

H. Reinstatement fee — \$500; and

I. Replacement of permit, license, or certificate — \$50.

.10 Display of Permit.

A permit, license, and certification, as well as any other permit or license required by local, State, or federal agencies, shall be conspicuously displayed in a public area on the crematory premises.

10.29.18 Crematories — Inspections, Complaints, Investigations, Grounds for Discipline, and Penalties

Authority: Health Occupations Article, §§7-101, 7-102, 7-205, 7-316, 7-317, 7-319, and 7-406, Annotated Code of Maryland

.01 Scope.

This chapter governs crematory inspections, standards, the complaint process, investigations, grounds for discipline, and penalties.

.02 Inspection by the Board.

A. A crematory shall be available for inspection by a representative of the Board at any time during operating hours.

B. A crematory shall be inspected:

(1) On at least a biennial basis;

(2) In furtherance of an investigation; or

(3) Upon the sale or change of ownership of the crematory.

C. A crematory shall maintain the following minimum standards:

(1) The premises shall be maintained in a sanitary manner, except in an emergency life-threatening situation, where it is not feasible or practicable to comply with Centers for Disease Control's guidelines on universal precautions;

(2) Except by express written consent of the authorizing agent, there may not be more than one human body cremated simultaneously in a single cremator;

(3) A cremator shall be completely cleaned after each cremation;

(4) There may not be co-mingling of humans and pets in refrigeration units or vehicles;

(5) Separate cremators shall be dedicated each for humans and pets;

(6) There may not be:

(a) Co-mingling of cremated human cremains with other human or pet cremains; or

(b) Scooping of cremated human remains from a comingled cremation bucket;

(7) Excluding a deceased person with a known communicable infection, each body shall be properly identified before cremation by verifying that the documentation accompanying the deceased is consistent with a visual observation of the deceased;

(8) Burial transit permit shall be an original document pertaining to the deceased;

(9) The facility shall have:

(a) A hand washing sink with hot and cold water; and

(b) The ability to hose down the floor;

(10) The name of the deceased shall be visible on the outside of the container;

(11) Deceased human remains shall be properly stored before cremation;

(12) Crematories shall:

(a) Use only mechanical pulverizing equipment meeting industry standards that has been totally brushed as clean as possible between each use; and

(b) When the cremains being pulverized are not sufficient in amount for pulverizing in mechanical equipment, pulverize with a mortar and pestle;

(13) Separate pulverizing drums shall be dedicated each for humans and pets;

(14) Ashes may not be held pending payment of any fees;

(15) Within 6 months of the effective date of these regulations, cremators shall be retrofitted with safety devices that will prevent the automatic door from dropping prematurely;

(16) Portable fans may not be used in the area of the cremator and pulverizer;

(17) There shall be a minimum of 6 inches between cremator smoke stack and the roof of the crematory;

(18) Before pulverizing, the mechanical pulverizer shall be clamped; and

(19) A cremator shall have visible on its front a warning sign stating, "No leaning past the door of the cremator."

D. The following completed forms from previous cremations shall be available at all times for inspection and are subject to be pulled at random by the inspector:

- (1) Cremation authorization form;
- (2) Burial transit permit;
- (3) Delegation of authority form;
- (4) Receipt for human remains;
- (5) Record of cremation;
- (6) Certificate of cremation; and
- (7) Return of cremains certificate.

E. Inspection results shall be written on forms approved by the Board.

F. The Board representative performing the inspection shall, on completion of the inspection:

(1) Apprise the permit holder of the findings of the inspection; and

(2) Provide the permit holder or representative of the permit holder with a copy of the inspection report.

G. The permit holder or representative of the permit holder shall sign and verify receipt of the inspection report.

H. After a cremator has completed 1,500 cremation cycles and a manufacturer's inspection has not taken place between biennial Board inspections, at the time of the Board inspection, the permit holder shall provide written documentation to the Board's inspector that the permit holder has requested that the manufacturer conduct an inspection of the equipment.

.03 Crematory Inspection Report, Deficiencies, and Penalties.

A. The Board shall review the inspection report and make a determination as to whether a deficiency exists.

B. The Board shall notify the permit holder of the results of the inspection by providing a copy of the inspection report to the permit holder.

C. If a permit holder passes an inspection, the permit holder shall, prominently and in public view, display on the premises a statement issued by the Board that the crematory has successfully passed an inspection.

D. If the Board finds a deficiency, the Board shall:

(1) Notify the permit holder of the deficiency or failure to pass the inspection; and

(2) Provide a copy of the inspection report to the permit holder.

E. Correction of Deficiency.

(1) Except as provided in this section, a permit holder shall correct a deficiency within 30 days after receipt of notification or within the time frame specified by the inspector, whichever is longer.

(2) The Board may require immediate correction of a deficiency if the Board considers the correction necessary in the interest of public health.

(3) The permit holder may request an extension of time for correction of a deficiency.

(4) The Board may approve an extension of time for correction of a deficiency.

(5) Upon completion of correction of all deficiencies, the permit holder shall notify the Board.

(6) Upon notification, a representative of the Board shall re-inspect the crematory.

(7) The Board shall notify the permit holder in writing of the results of the re-inspection by providing a copy of a new inspection report to the permit holder.

(8) If re-inspection reveals additional deficiencies not cited in the first report, the permit holder shall correct those deficiencies in the time period specified by the Board unless an extension of time is requested by the permit holder and approved by the Board.

F. Penalties. In the event that a permit holder fails to allow an inspection of the crematory or fails to comply with a notice to correct deficiencies or violations within the time specified, the Board shall:

(1) Deem the failure to be a threat to the public health, safety, or welfare and requiring emergency action;

(2) Summarily suspend the crematory permit as provided under State Government Article, §10-226(c)(2), Annotated Code of Maryland;

(3) Provide notice of the Board's action to the permit holder; and

(4) Provide the permit holder an opportunity to be heard.

.04 Complaints.

A. If the permit holder was issued a permit by the Board, a complaint shall be:

(1) Filed in compliance with the provisions of COMAR 10.29.11.03; and

(2) Processed in accordance with the provisions of COMAR 10.29.11.04.

B. The Board may initiate a complaint on its own.

.05 Investigations.

The Board and the Office of Cemetery Oversight may:

A. Share investigative information; and

B. Conduct joint investigations.

.06 Grounds for Discipline, Hearing, and Penalties.

A. Pursuant to the provisions of Health Occupations Article, §§7-316 and 7-319, Annotated Code of Maryland, the Board may deny a crematory permit, crematory supervisor license, or crematory technician certification to an applicant, reprimand any permit holder, licensed crematory supervisor, or certified crematory technician, or suspend or revoke a crematory permit, crematory supervisor license, or crematory technician certification.

B. Pursuant to the provisions of Health Occupations Article, §7-317, Annotated Code of Maryland, if the Board, after bringing an action, finds that there are grounds for probation, suspension, or revocation, the Board may impose a penalty not exceeding \$5,000.

10.29.19 Crematories — Cremation Procedures

Authority: Health Occupations Article, §§7-101, 7-102, and 7-205, Annotated Code of Maryland

.01 Scope.

This chapter governs the procedures to be followed in performing a cremation in this State.

.02 Removal, Identification, and Transportation of Human Remains.

A. Immediately before placing human remains in the cremator, the permit holder's designee shall:

(1) Verify that the information on the wrist tag is consistent with the:

(a) Documentation accompanying the deceased; and

(b) Visual observation of the remains themselves; and

(2) *Inspect for and remove any foreign objects found therein.*

B. Foreign objects removed from the human remains:

(1) *Shall be treated as medical waste and disposed of accordingly; and*

(2) *May not be donated until a sterilization process through a third party recognized to dispose properly of medical waste has been performed.*

C. Materials identifying the human remains that are placed in the custody of a permit holder shall contain the following information about the decedent:

(1) *Name;*

(2) *Date of birth;*

(3) *Date of death;*

(4) *Name of funeral establishment or authorizing agent;*

(5) *Gender; and*

(6) *Name and relationship of authorizing agent to deceased.*

D. A permit holder may not accept for cremation unidentified human remains.

.03 Cremation Containers.

A. A cremation container:

(1) *Shall be a readily combustible, stackable, rigid container suitable for cremation;*

(2) *Shall provide a completely enclosed covering for the human remains except in a funeral establishment:*

(a) *Where no third party cremations take place; and*

(b) *In which remains are stored in refrigerated rigid trays;*

(3) *Shall be resistant to leakage or spillage;*

(4) *Shall be of sufficient strength and rigidity for ease of handling;*

(5) *Shall provide protection to the health and safety of crematory establishment personnel and the public;*

(6) *Shall comply with all local, State, and federal governmental emissions regulations; and*

(7) *May not be composed of metal or polyethylene material.*

B. Immediately before placing the cremation container in the cremation chamber, the permit holder's designee shall hose down a casket that is heavily lacquered.

.04 Holding Facilities.

A holding facility shall:

A. Comply with applicable public health laws;

B. Preserve the dignity of human remains;

C. Recognize the integrity, health, and safety of crematory establishment personnel; and

D. Be secure from access by unauthorized persons.

.05 Holding Remains.

A. Human remains that have been designated for cremation shall be cremated by a permit holder within 48 hours after receipt.

B. A permit holder may not hold human remains for cremation unless the human remains are contained within an individual, rigid stackable, closed cremation container.

C. A permit holder may not accept a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

D. Whenever a permit holder is unable to cremate human remains within 48 hours of taking custody thereof, the permit holder shall maintain the human remains in a refrigerated holding facility, either on or off site, at 40°F or less, unless the remains have been embalmed.

.06 Identification Immediately Before Cremation; Simultaneous Cremation of Multiple Human Remains.

A. Immediately before being placed within the cremation chamber, the permit holder's designee shall:

(1) *Verify the identification of the human remains; and*

(2) *Place on the cremator the circular hard metal identification tag of the human remains being cremated where it shall remain in place until the cremation process is complete.*

B. The permit holder's designee may not leave the immediate area of the cremator during the cremation process.

C. Records.

(1) *The permit holder shall maintain the written authorizations required by Regulation .08 of this chapter as required pursuant to Health-General Article, §4-304, Annotated Code of Maryland, and COMAR 10.01.16.04B.*

(2) *The records are subject to inspection and copying by the Board.*

.07 Cremation Authorization.

A. Except as otherwise provided in COMAR 10.29.18.02, a permit holder may not cremate human remains until:

(1) *The body has been identified as required under Health Occupation Article, §7-411, Annotated Code of Maryland;*

(2) *The crematory has received:*

(a) *A cremation authorization on a form approved by the Board and signed by an authorizing agent;*

(b) *If applicable, a written delegation document or facsimile; and*

(c) *Any other documentation required by federal, State, or local law; and*

(3) *The permit holder has documented that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.*

B. The cremation authorization form shall:

(1) *Be provided by the crematory authority to the authorizing agent; and*

(2) *Contain the following information:*

(a) *The identity of the human remains;*

(b) *Date of death;*

(c) *The name and address of the authorizing agent and the relationship between the authorizing agent and the deceased;*

(d) *Authorization for the crematory authority to cremate the human remains;*

(e) *Authorization to verify that the following have been removed before cremation:*

(i) *An implanted pacemaker or defibrillator; and*

(ii) *Any other materials that should be removed to prevent harm to the public health or damage to equipment;*

(f) *A representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains; and*

(g) *The name and address of the person authorized to claim the cremains from the permit holder or accept the cremated remains via registered mail.*

C. If an authorizing agent is not available to execute the cremation authorization form, the authorizing agent may delegate that authority to another individual:

(1) *In writing; or*

(2) *If located outside the area, by transmitting to the permit holder:*

(a) *A signed statement electronically or by facsimile that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated; and*

(b) *Once the authorizing agent is located in the area, a notarized document through postal mail attesting to the delegation of authority.*

D. Upon receipt of the written delegation document or a copy of the statement transmitted electronically or by facsimile, the permit holder shall allow the named individual to serve as the authorizing

agent. The documents shall be signed by the authorizing agent in front of a notary.

E. A person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and the authority of that person to order such a cremation.

F. A permit holder shall maintain a copy of every cremation authorization form required under this regulation as permanent records.

G. Cremation authorization forms are subject to inspection and copying by the Board.

.08 Record of Receipt of Remains.

A. A permit holder shall provide to an individual who delivers human remains for cremation a receipt signed by both the permit holder authority and the individual who delivered the human remains, that includes the:

- (1) Name of the individual from whom the human remains were received and the name of the individual's employer, if any;
- (2) Name and address of the crematory authority;
- (3) Name of the deceased;
- (4) Gender of deceased;
- (5) Date of death of deceased; and
- (6) Verification of authorized burial transit permit.

B. The permit holder shall maintain a record of each cremation which shall include the:

- (1) Name of the decedent;
- (2) Date of birth of the decedent;
- (3) Gender of decedent;
- (4) Date of death;
- (5) Name and address of the authorizing agent;
- (6) Date, time, and location of cremation; and
- (7) Name of the individual who performed the cremation.

C. The permit holder shall provide a certificate of disposition of cremains to the authorizing agent or funeral establishment that arranged for the cremation that includes the:

- (1) Name of the decedent;
- (2) Name of the authorizing agent;
- (3) Name and address of the person who received the cremains from the crematory authority; and
- (4) If ascertainable:
 - (a) The location, including the name of the cemetery and plot location if the remains are interred; and
 - (b) The date of the disposition of the cremains.

D. The permit holder shall maintain a copy of every record and receipt required by this chapter as permanent records:

- (1) For a period of 5 years; or
- (2) As required by Health-General Article, §4-304, Annotated Code of Maryland, and COMAR 10.01.16.04.

E. All records and receipts required by this chapter are subject to inspection and copying by the Board.

.09 Use of a Casket: Embalming.

A. Except as provided in §B of this regulation, a permit holder may not:

- (1) Require that human remains be placed in a casket before cremation or that human remains be cremated in a casket;
- (2) Refuse to accept human remains for cremation because the remains are not in a casket; or
- (3) Refuse to accept human remains for cremation because the remains are in a suitable, combustible wooden casket, but may request the metal mattress holder be removed.

B. Human remains delivered to a crematory establishment may not be removed from the cremation container.

C. The cremation container shall be cremated with the human remains unless the authorizing agent for the deceased requests a more natural environment for the deceased. A permit holder is not required to accept this manner of disposition.

D. A crematory authority may not require that human remains be subjected to embalming before cremation.

.10 Disposition of Cremated Human Remains.

A. On completion of the cremation, insofar as is possible:

(1) All of the recoverable residue of the cremation process shall be:

- (a) Removed from the cremator; and
- (b) Placed in a container; and

(2) The identification tag required by Health Occupations Article, §7-411, Annotated Code of Maryland, shall be:

- (a) Removed from the control panel or cremator; and
- (b) Placed in the container with the cremated human remains.

B. All of the cremated human remains, together with the identification disc, shall be placed in a sealable container.

C. If the cremation container opening is not of adequate dimensions to accommodate a disc, it shall be affixed to the container.

D. If all of the cremated human remains and the identification disc will not fit within the dimensions of a sealable container, the remainder of the remains shall be returned to the authorizing agent in a separate, sealable container. Container seams are to be taped.

E. If the cremated human remains and identification disc do not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the remains and then securely closed.

F. If a sealable container is to be shipped, it shall:

- (1) Be placed within a separate sturdy box with all box seams securely taped closed; and
- (2) Have the name of the deceased person whose remains are contained therein clearly identified on the outside of the container.

G. If cremated human remains have been in the possession of a permit holder, as originally authorized by the authorizing agent without instructions for disposition for a period of 10 days or more from the date of cremation, the permit holder may send the cremains, by registered mail, return receipt requested, to the authorizing agent.

.11 Tools.

A crematory shall maintain the following tool inventory:

- A. Safety placement tool measuring a minimum of 49 inches in length;
- B. Wire brushes for cleaning cremators;
- C. Brush with fine bristles for cleaning pulverizers;
- D. Mortar and pestle;
- E. Funnel;
- F. High temperature protective gloves and heat resistant leather gloves;
- G. Hand magnet or metal detector to remove metal from cremains;
- H. Tweezers to remove nonmetal objects from cremains; and
- I. Dust masks.

.12 Visitors.

There may not be no more than two family members or representatives, all outfitted with appropriate protective gear, of the authorizing agent in the area housing the cremator at the time of cremation.

10.29.20 Crematories — Code of Ethics

Authority: Health Occupations Article, §7-101, Annotated Code of Maryland

.01 Scope.

This chapter governs any person who holds a permit to:

- A. Engage in the operation of a crematory;
- B. Act as a crematory supervisor; or
- C. Act as a crematory technician.

.02 General Professional Practices.

A. A permit holder, crematory supervisor, or crematory technician shall:

- (1) Act in a manner that respects and protects the dignity of a decedent and the decedent's family;
- (2) Conduct business in a reasonable, usual, and customary manner;
- (3) Comply with the State public health laws as set forth in the Health-General Article, §§4-215 and 5-501, Annotated Code of Maryland;
- (4) Comply with the Maryland Morticians and Funeral Directors Act, Health Occupations Article, Title 7, Annotated Code of Maryland;
- (5) Implement and follow through on all arrangements agreed on between consumer and the crematory;
- (6) Provide appropriate services for and respect the rights of individuals without regard to age, race, creed, national origin, gender, disability, marital status, political belief, religious affiliation, social or economic status, or social preferences;
- (7) Comply with all local, State, and federal laws regarding the final disposition of human remains;
- (8) Be sensitive and responsive to the bereavement needs of a decedent's family; and
- (9) Provide a general price list that shall be retained and include accurate information to anyone who requests information regarding cremation related goods and services.

B. In advertising, a licensee may not include statements:

- (1) That are a misrepresentation of facts;
- (2) That are likely to mislead or deceive because, in context, the statement makes only a partial disclosure of relevant facts;
- (3) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a consumer; or
- (4) Containing representations or implications that in reasonable probability can be expected to cause an ordinarily prudent individual to misunderstand or be deceived.

C. A permit holder, crematory supervisor, or crematory technician may not:

- (1) Use, or participate in the use of, any form of communication to consumers containing a false, fraudulent, misleading, deceptive, or unfair statement or claim; or
- (2) Operate a crematory or perform a cremation while under the influence of alcohol, an illegal drug, or a controlled dangerous substance, without the prescription of a physician.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.23 Unprofessional Conduct

Authority: Health Occupations Article, §§1-212, 4-315(a)(16), 4-315(b)(3), and 4-505(a)(2), Annotated Code of Maryland

Notice of Proposed Action

[12-087-P]

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations .01 — .03 and adopt new Regulations .01 and .02 under **COMAR 10.44.23 Unprofessional Conduct**. This action was considered by the Board of Dental Examiners at public meetings held on November 28, 2011, and February 1, 2012, notice of which was given under the Notice of Public Meetings link on the Board's website pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to delineate certain conduct that constitutes unprofessional conduct for dentists, dental hygienists, and dental radiation technologists. This is not a limitation of other conduct which may constitute unprofessional conduct.

This proposal repeals existing COMAR 10.44.23.02, which requires that a dentist obtain specific informed consent from a patient before removing sound or serviceable mercury amalgam restorations. By repealing the regulation, the Board of Dental Examiners does not mean to imply that the removal of sound or serviceable mercury amalgam restorations may be performed without first obtaining informed consent. Because a dentist is required to obtain informed consent for all dental procedures, it is not necessary to make distinctions and enumerate specific procedures that require informed consent. In fact, to do so may lead patients to infer that procedures not enumerated do not require informed consent. New COMAR 10.44.23.01A(6) provides more generally that it is unprofessional conduct for a dentist to "Perform[ing] a dental procedure without first obtaining informed consent from the patient or the patient's legal representative."

Informed consent only exists when a patient has gained full knowledge about what treatment will be performed, including available alternatives, risks or dangers inherent in or collateral to the treatment, possible complications, and possible consequences of not undergoing the procedures. The concept of informed consent is to enable the patient to make an intelligent and informed choice about whether or not to undergo such treatment. The information provided to a patient should be truthful, unbiased, and based upon sound scientific evidence.

The Board wishes to make clear that it does not advocate "mercury free" dentistry or the removal of sound or serviceable mercury amalgam restorations for replacement of nonmercury containing materials. The Board supports the present position of the federal Food and Drug Administration that there is no causal link between dental amalgam and adverse health effects, as contained in its publication "Dental Devices: Classification of Dental Amalgam, Reclassification of Dental Mercury, Designation of Special Controls for Dental Amalgam, Mercury, and Amalgam Alloy, 74 Fed. Reg. 38686, 38686-386714 (August 4, 2009)". There is no credible scientific evidence to indicate that dental amalgam is harmful. See *id.*

The Board wishes to stress that dental amalgam has proven to be a safe and cost effective way to correct dental decay. It is a material that due to its many advantages can be used in multiple situations that are not suitable to other restorative materials.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.01 Unprofessional or Dishonorable Conduct.

A. The following shall constitute unprofessional or dishonorable conduct in the practice of dentistry, dental hygiene, or dental radiation technology:

(1) Misrepresenting the following to a patient or the public:

(a) The description, chemical composition, or quality of the materials the licensee uses or intends to use; or

(b) Methods and techniques the licensee uses or intends to use;

(2) Engaging in conduct which is unbecoming a member of the dental profession;

(3) Representing that a dental procedure has been completed when in fact the procedure has not been completed;

(4) Permitting or failing to prevent the placement or exposure of dental radiographs by an individual not certified or otherwise qualified to do so;

(5) Committing an act of sexual misconduct as described in §B of this regulation;

(6) Performing a dental procedure without first obtaining informed consent from the patient or the patient's legal representative;

(7) Willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the Board, which includes, but is not limited to:

(a) Furnishing information requested;

(b) Complying with a subpoena;

(c) Responding to a complaint at the request of the Board; and

(d) Providing meaningful and timely access to relevant patient records; or

(8) Committing any other unprofessional or dishonorable act or omission in the practice of dentistry, dental hygiene, or dental radiation technology.

B. Sexual misconduct of either a verbal or a physical nature shall include, but is not limited to:

(1) Sexual behavior with a patient in the context of a professional evaluation, treatment, procedure, or other service to the client or patient, regardless of the setting in which professional service is provided;

(2) Sexual behavior with a patient under the pretext of diagnostic or therapeutic intent or benefit;

(3) Requesting sexual favors of a patient;

(4) Touching a patient in a sexual manner;

(5) Therapeutically unnecessary discussion of sexual matters or other verbal conduct of a sexual nature while treating a patient;

(6) Taking photographs or videotapes of a patient for sexual purposes;

(7) Sexual behavior that would be considered unethical or unprofessional; or

(8) The use of a drug on a patient for the purpose of sexual behavior.

.02 Penalties.

A. A dentist who violates this chapter is subject to the sanctions enumerated in Health Occupations Article, §4-315(a), Annotated Code of Maryland.

B. A dental hygienist who violates this chapter is subject to the sanctions enumerated in Health Occupations Article, §4-315(b), Annotated Code of Maryland.

C. A dental radiation technologist who violates this chapter is subject to the sanctions enumerated in COMAR 10.44.19.11A.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.30 Record Keeping

Authority: Health Occupations Article, §4-205(c)(3), Annotated Code of Maryland

Notice of Proposed Action

[11-168-R]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01—.05** under a new chapter, **COMAR 10.44.30 Record Keeping**. Because substantive changes have been made to the original proposal as published in 38:14 Md. R. 812—813 (July 1, 2011), this action is being repropose at this time. This action was considered by the Board of Dental Examiners at a public meeting held on April 6, 2011, and December 21, 2011, notice of which was given under the Notice of Public Meetings link on the Board's website pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish requirements for creating and maintaining dental records. The reproposal makes clear that: 1) the requirements imposed by the regulations for making changes to dental records applies to handwritten and typed records; and 2) dentists with drug dispensing permits must maintain adequate records of the medications prescribed, administered, dispensed, quantity, and directions for use.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be

accepted through April 23, 2012. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. **Helvetica Bold Italic** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

.01 (originally proposed text unchanged)

.02 General Provisions.

A.—R. (originally proposed text unchanged)

S. *Changes to **handwritten and typed** dental records shall:*

(1)—(5) (originally proposed text unchanged)

T.—V. (originally proposed text unchanged)

W. A dentist who has been issued a dispensing permit by the Board shall maintain dispensing records in accordance with Regulation .03J of this chapter.

.03—.05 (originally proposed text unchanged)

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 44 BOARD OF DENTAL EXAMINERS

10.44.32 General Competency Requirements

Authority: Health Occupations Article, §§4-205(a)(5), 4-205(c)(3), and 4-315(a), Annotated Code of Maryland

Notice of Proposed Action

[12-081-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations **.01** and **.02** under a new chapter **COMAR 10.44.32 General Competency Requirements**.

Statement of Purpose

The purpose of this action is to establish general competency requirements for dentists.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD

21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.01 Definition.

A. *In this chapter, the following term has the meaning indicated.*

B. *Term Defined. "Practice dentistry" means to:*

(1) *Be a manager, a proprietor, or a conductor of or an operator in any place in which a dental service or dental operation is performed intraorally;*

(2) *Perform or attempt to perform any intraoral dental service or intraoral dental operation;*

(3) *Diagnose, treat, or attempt to diagnose or treat any disease, injury, malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a tooth, gum, or jaw if the service, operation, or procedure is included in:*

(a) *The curricula of an accredited dental school; or*

(b) *An approved dental residency program of an accredited hospital or teaching institution;*

(4) *Perform or offer to perform dental laboratory work;*

(5) *Place or adjust a dental appliance in a human mouth; or*

(6) *Administer anesthesia for the purposes of dentistry and not as a medical specialty.*

.02 Professional Competence.

A. *A dentist shall practice dentistry as defined in Regulation .01 of this chapter.*

B. *A dentist shall:*

(1) *Limit their practice to the areas of competence by which proficiency has been gained through education, training, and experience;*

(2) *Acquire the special education and training needed to address the cultural differences of diverse populations;*

(3) *Avoid unfair discrimination based on age, gender, race, ethnicity, culture, national origin, disability, socioeconomic status, or other basis proscribed by law;*

(4) *Use treatment only when the dentist knows that the circumstances are appropriate;*

(5) *Maintain competence by meeting the requirements of continuing education in accordance with COMAR 10.44.22;*

(6) *Engage in ongoing consultation with other dentists or relevant professionals;*

(7) *Seek appropriate education, training, and experience when developing competence in a new service or technique; and*

(8) *Document and maintain appropriate records of all relevant course work and training used to gain competence.*

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 52 PREVENTIVE MEDICINE

10.52.03 Health Education — General Regulations

Authority: [Section II, Chapter 292, Laws of Maryland, 1984] *Health-General Article, §§2-104(b) and 2-105(b), Annotated Code of Maryland*

Notice of Proposed Action

[12-083-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.01** under **COMAR 10.52.03 Health Education — General Regulations**.

Statement of Purpose

The purpose of this action is to amend the regulations for providing general health education services for Maryland residents, subject to the availability of funding. The health education services inform the public about various health issues, promote healthy behaviors, and organize groups to promote health-enhancing activities or achieve environmental changes. This proposal amends language concerning the services provided by health educators to more accurately reflect the work done by these employees and specifies a State service hiring preference for health educators with Certified Health Education Specialist (CHES) credentials.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.01 Health Education Services Regulations.

A. Type of Service to [be] Be Provided. Services to be provided are health education services of a general nature for purposes of informing the public [of] about various health issues, promoting health enhancing behaviors, and organizing groups to promote the health enhancing activities of others or to achieve *societal and environmental* changes [in the environment] *conducive to health*. These services [are represented by,] *include* but *are* not limited to the following [services which]:

(1) [Plan, conduct, and evaluate] *Planning, conducting, and evaluating* a media campaign or [some subpart] *a component* of a media campaign;

(2) [Plan, conduct, and evaluate] *Planning, conducting, and evaluating* an employee or community intervention for [some] *a* specified behavior [changes] *change*;

(3) [Train] *Training* health professionals [so they] *to* provide effective education to their clients;

(4) [Prepare and distribute materials to support a health education program] *Distributing existing or newly developed health-related educational materials and resources*;

(5) [Organize and lead] *Organizing and leading* a group to find [its] goals and [actions] *strategies* to achieve a health end;

(6) [Plan, conduct, and evaluate a specific intervention using many methods to achieve knowledge or behavior change.] *Implementing population-based health education programs using evidence-based methods and strategies*;

(7) *Assessing and analyzing community needs and assets*;

(8) *Accessing, interpreting, and disseminating qualitative and quantitative data*; and

(9) *Planning, conducting, and evaluating health promotion and education interventions and initiatives*.

B. (text unchanged)

C. Licensing or Certification Requirements of Professional Service Providers and Facilities as Applicable.

(1) All organizations, public and private, which are permitted to engage in business in Maryland may be contractors for health education services. [No specific licensing or certification standards are applicable.]

(2) *If candidates seeking health educator positions in State service have similar qualifications, the Department of Health and Mental Hygiene shall give a hiring preference to those candidates who have Certified Health Education Specialist (CHES) credentials issued by the National Commission for Health Education Credentialing, Inc.*

(3) Vendor requirements for specific programs, if any, will be specified in a request for proposal.

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Subtitle 57 BOARD FOR THE CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS

10.57.10 Disciplinary Sanctions and Monetary Penalties

Authority: Health Occupations Article, §§1-606, 20-313, and 20-405,
Annotated Code of Maryland

Notice of Proposed Action

[12-078-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.05 under new chapter, **COMAR 10.57.10 Disciplinary Sanctions and Monetary Penalties**. This action was considered by the Board for the Certification of Residential Child Care Program Professionals at a public meeting on December 9, 2011, notice of which was given by publication in 38:24 Md. R. 1552 (November 18, 2011), pursuant to State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish guidelines within which the Board may impose disciplinary sanctions for violations of the Maryland Certification of Residential Child Care Program Professionals Act or COMAR 10.57.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to regs@dhhm.state.md.us, or fax to 410-767-6483. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

This chapter establishes standards for the imposition of disciplinary sanctions, not exceeding the maximum provided pursuant to Health Occupations Article, §20-405, Annotate Code of Maryland, against any residential child care program administrator or residential child and youth care practitioner in the state if, after a hearing or by consent after the right to a hearing has been waived, the Board finds that there are grounds under Health Occupations Article, §20-313, Annotate Code of Maryland, to deny a certificate to any applicant, reprimand a certificate holder, place a certificate holder on probation, suspend or revoke a certificate, or impose a fine or a term of imprisonment against a certificate holder under Health Occupations Article, §20-405, Annotated Code of Maryland.

(3) "Sanction" means a formal disciplinary action reprimanding, restricting, suspending, or revoking a certificate.

B. Imposition of a Penalty Without a Hearing. If, after disciplinary procedures have been brought against a certified residential child care program administrator or a certified residential child and youth care practitioner, the certified residential child care program administrator or certified residential child and youth care practitioner waives the right to a hearing required under State Government Article, Title 10, Annotated Code of Maryland, and subject to the guidelines set forth in this subtitle, if the Board finds that there are grounds under Health Occupations Article, §20-313, Annotated Code of Maryland, to reprimand the certified residential child care program administrator or certified residential child and youth care practitioner, place the certificate on probation, or suspend or revoke a certificate, the Board may impose a penalty for each violation in addition to reprimanding, placing the certificate on probation, or suspending or revoking the certificate.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Suspension	Denial of application or revocation	Suspension to denial of application or revocation of certificate

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Suspension	Revocation	Suspension to revocation of certificate

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least	(a) Convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude	Suspension for 1 year and probation for 1 year with conditions	Denial of application or revocation	Suspension for 1 year and probation for 1 year with conditions
to	(b) Has been convicted of or pleads guilty or nolo contendere for assault or a drug-related offense or violation of the Courts and Judicial Proceedings Article, §8-838 or 3-8A-30, Annotated Code of Maryland, within 5 years of applying for certification or renewal	N/A	Denial of application or revocation	Denial of application or revocation

<i>Greatest</i>	(c) Indicated finding of child abuse or neglect or conviction for child abuse or neglect, spousal abuse, rape, sexual assault, homicide, or any crime against children	N/A	Denial of application or revocation	Denial of application or revocation
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(4) Impairment (mentally, physically, or through the use of drugs or alcohol).

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
<i>Least</i>	(a) Mental impairment	Suspension	Denial of application or revocation	Suspension to denial of application or revocation
<i>to</i>	(b) Physical Impairment	Suspension	Denial of application or revocation	Suspension to Denial of application or revocation
	(c) Misuse of drugs or alcohol without harm to others	Suspension for 2 years and probation for up to 5 years, and conditions	Denial of application or revocation	Suspension for 2 years and probation for up to 5 years, and conditions to Denial of application or revocation
	(d) Misuse of drugs or alcohol with client harm or a risk of client harm	Denial of application	Revocation	Denial of application to revocation
<i>Greatest</i>				

(5) Reciprocal Discipline.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
<i>Least</i>	(a) Conduct resulting in no physical or psychological harm	Reprimand	Denial of application, reprimand and probation for up to 3 years, and conditions	Reprimand to Denial of application, reprimand and probation for up to 3 years, and conditions
<i>to</i>	(b) Conduct resulting in physical or psychological harm or a risk of physical or psychological harm.	Suspension for 3 years, without stay and probation for up to 3 years, and conditions	Denial of application or revocation	Suspension for 3 years, without stay and probation for up to 3 years, and conditions to denial of application or revocation
	(c) Misrepresentation or fraud	Suspension for 2 years, without stay and probation for 2 years, and conditions	Denial of application or revocation	Suspension for 2 years, without stay and probation for 2 years, and conditions to denial of application or revocation
<i>Greatest</i>	(d) Conduct not provided for in (a)–(c) above	Reprimand	Revocation	Reprimand to revocation

(6) Unauthorized Practice.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
<i>Least</i>	(a) Knowingly allows an unauthorized individual to practice without harm to client	Reprimand with conditions	Denial of application or revocation	Reprimand with conditions to denial of application or revocation
<i>to</i>	(b) Knowingly allows an unauthorized individual to practice with greater than minimal client harm	Suspension for 5 years without stay for 30 days, and probation for 5 years, and condition	Denial of application or revocation	Suspension for 5 years without stay for 30 days, and probation for 5 years, and condition to denial of application or revocation
	(c) An authorized individual practices outside their scope of practice without client harm or minimal client harm	Reprimand with conditions	Denial of application or revocation	Reprimand with conditions to denial of application or revocation

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<i>Greatest</i>	<i>(d) An authorized individual practices outside their scope of practice with greater than minimal client harm</i>	<i>Suspension for 5 years without stay for 30 days, and probation for 5 years, and condition</i>	<i>Denial of application or revocation</i>	<i>Suspension for 5 years without stay for 30 days, and probation for 5 years, and condition to denial of application or revocation</i>
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(7) Willfully Makes or Files a False Report, Willfully Fails, Obstructs the Filing, or Induces Another to Fail to File or Record a Report as Required by Law.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Suspension	Denial of application or revocation	Suspension to denial of application or revocation

(8) Unprofessional Conduct in Performing Duties.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
<i>Least</i>	<i>(a) Unprofessional conduct resulting in no physical or psychological harm to a client</i>	<i>Reprimand and conditions</i>	<i>Suspension for up to 2 years and probation for up to 2 years, conditions</i>	<i>Reprimand and conditions to Suspension for up to 2 years and probation for up to 2 years, conditions</i>
<i>to</i>	<i>(b) Unprofessional conduct resulting in physical or psychological harm or a risk of physical or psychological harm to a client</i>	<i>Suspension for 3 years, and probation for 3 years, and conditions</i>	<i>Revocation</i>	<i>Suspension for 3 years, and probation for 3 years, and conditions to revocation</i>
	<i>(c) Unprofessional conduct resulting from any violation not provided in (a)—(b) above</i>	<i>Reprimand</i>	<i>Revocation</i>	<i>Reprimand to revocation</i>
<i>Greatest</i>				

(9) Discrimination.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Reprimand	Probation	Reprimand to probation

(10) Sexual Misconduct.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	<i>Suspension for at least 5 years and probation with conditions for up to 10 years</i>	<i>Denial of application or revocation</i>	<i>Suspension for at least 5 years and probation with conditions for up to 10 years to Denial of application or revocation.</i>

(11) Continuing Education Violations.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Reprimand	Suspension	Reprimand to Suspension

(12) Failure to Cooperate.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
<i>Least</i>	<i>(a) Willfully, and without legal justification, fails to cooperate with a lawful investigation conducted by the Board</i>	<i>Suspension for 5 years, without stay for 30 days, and probation for 5 years with conditions</i>	<i>Denial of application or revocation</i>	<i>Suspension for 5 years, without stay for 30 days, and probation for 5 years with conditions to denial of application or revocation</i>
<i>to</i>	<i>(b) Threatens forces, intimidates, or influences a person to change or withhold evidence before the Board</i>	<i>Suspension for 5 years, without stay for 90 days, and probation for 5 years with conditions</i>	<i>Denial of application or revocation</i>	<i>Suspension for 5 years, without stay for 90 days, and probation for 5 years with conditions to denial of application or revocation</i>
<i>Greatest</i>				

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	\$1,500	\$5000 or imprisonment not exceeding 6 months or both	\$1,500 to \$5,000 or imprisonment not exceeding 6 months or both

<i>Severity</i>	<i>Tier/Conduct</i>	<i>Sanction Range</i>		<i>Duration</i>
		<i>Minimum</i>	<i>Maximum</i>	
Least to Greatest	(a) Failure to comply with a Board order	Suspension for 3 years, without stay for at least 10 days, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, without stay for at least 10 days, and probation for 3 years, and conditions to revocation
	(b) Failure to comply with Board order with additional unprofessional conduct	Suspension for 3 years, without stay for at least 30 days, and probation for 3 years, and conditions	Revocation	Failure to comply with Board order with additional unprofessional conduct to revocation
	(c) Failure to comply with Board order with serious injury or death of a client, or the risk of significant physical injury or death	Suspension for 5 years, without a stay, and probation for 5 years, and conditions	Revocation	Failure to comply with Board order with serious injury or death of a client, or the risk of significant physical injury or death to revocation

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
N/A	N/A	Suspension	Denial of application or revocation	Suspension to denial of application or revocation

.05 Mitigating and Aggravating Factors to be Considered in the Assessment of a Sanction.

(7) *Absence of premeditation to commit the misconduct;*

(9) *The certified residential child care program administrator or residential child and youth care practitioner failed to cooperate with the investigation;*

(10) *Previous attempts at rehabilitation of the certified residential child care program administrator or residential child and youth care practitioner were unsuccessful; and*

(11) *The certified residential child care program administrator or residential child and youth care practitioner committed the violation under the guise of treatment.*

C. *The existence of one or more of these factors does not impose on the Board or an Administrative Law Judge any requirement to articulate its reasoning for not exercising its discretion to impose a sanction outside of the range of sanctions set forth in this chapter.*

D. *Nothing in this regulation requires the Board or an Administrative Law Judge to make findings of fact with respect to any of these factors.*

JOSHUA M. SHARFSTEIN, M.D.
Secretary of Health and Mental Hygiene

Title 14

INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY AGENCY

Notice of Proposed Action [12-086-P]

The Maryland State Lottery Agency proposes to amend:

(1) Regulation .19 under **COMAR 14.01.10 Video Lottery Terminals**; and

(2) Regulation .37 under **COMAR 14.01.14 Video Lottery Facility Minimum Internal Control Standards**.

This action was considered at the Maryland State Lottery Commission open meeting held on January 26, 2012, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update regulations to incorporate provisions required for the operation of the State's Video Lottery Terminal program and for the operation of the VLT Facilities which are now in operation and in the process of opening.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Blvd., Suite 300, Baltimore, MD 21230, or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

14.01.10 Video Lottery Terminals

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

.19 Vendor Registration and Certification.

A. Term Defined. "Vendor" means a person who provides goods or services to a video lottery operation applicant or licensee and who is not required to be licensed *as a manufacturer or contractor* under State Government Article, Title 9, Subtitle [9-1A] 1A, Annotated Code of Maryland, or this subtitle, and includes:

(1) — (11) (text unchanged)

(12) Persons whose services the Commission reviews and determines [are subject to registration] *must be registered or certified* under Regulation .19 of this chapter.

B. [Unless exempted under §C of this regulation, a] A vendor that conducts business with a video lottery operation applicant or licensee shall [register with] *be registered or certified by the Commission if the vendor is not exempt, and:*

(1) [The total value of all] *The vendor is providing non-gaming related goods and services [that it provides, or anticipates providing, to State video lottery operation applicants or licensees within a calendar year is \$2,500 or more; and] to a video lottery operation applicant or licensee for a value described in §D or E of this regulation; or*

(2) The Commission:

(a) Reviews a vendor's services and determines that registration *or certification* is required to protect the public interest of the State or accomplish the policies in State Government Article, Title 9, Subtitle [9-1A] 1A, Annotated Code of Maryland, and this subtitle; and

(b) Notifies the vendor that registration *or certification* is required.

C. The following persons that provide any of the enumerated services to a video lottery operation applicant or licensee are exempt from vendor registration *and certification* requirements:

(1) — (5) (text unchanged)

(6) Manufacturers [or suppliers] of alcoholic beverages;

(7) Separate from the requirements in Chapters 11 and 14 of this subtitle, [State- or federally-chartered] *State or federally chartered* banks or savings and loan associations [where funds are deposited by a video lottery operation licensee];

(8) Providers of professional services, including accountants, attorneys, engineers [or], architects, *and others identified by the Commission staff to be providers of professional services;*

(9) — (13) (text unchanged)

(14) Representatives of a media outlet or provider of a simulcast service; [or]

(15) A vendor that provides, or anticipates providing, a combined total value of non-gaming related goods and services to State video lottery operation applicants or licensees within a calendar year of less than \$2,500[.]; *or*

(16) *A vendor for whom the Commission determines registration or certification is not necessary in order to protect the public interest.*

D. [A vendor shall request registration by submitting to the Commission the following information in a format designated by the Commission:] *Vendor Registration.*

(1) *A vendor that provides, or anticipates providing, non-gaming related goods and services to a video lottery applicant or licensee in a calendar year that are valued from \$2,500 to \$99,999 shall be registered with the Commission.*

(2) *The video lottery applicant or licensee to which a vendor provides, or anticipates providing, the non-gaming related goods and services shall submit to the Commission a completed registration form in a format designated by the Commission that includes:*

[(1)] (a) — [(2)] (b) (text unchanged)

[(3) Each video lottery operation applicant or licensee in the State with which it does or expects to do business;]

[(4)] (c) — [(5)] (d) (text unchanged)

[(6) Any other jurisdiction where it conducts business related to a video lottery operation; and]

(e) *Verification that the vendor's business is in good standing with the Maryland Department of Assessment and Taxation; and*

[(7)] (f) (text unchanged)

(3) *Upon receipt of a completed registration form, the Commission shall provide the applicant or licensee with written notification of whether it has registered the vendor.*

E. [If the combined total value of all non-gaming related goods and services that a vendor provides, or anticipates providing, to State video lottery operation applicants or licensees within a calendar year exceeds \$10,000, the vendor shall submit to the Commission:

(1) The completed registration form required in §D of this regulation; and

(2) A registration fee of \$500.

F. Upon receipt of vendor's completed registration form and registration fee, the Commission shall verify the information provided by the vendor and:] *Vendor Certification.*

(1) *A vendor that provides, or anticipates providing, non-gaming related goods and services to a video lottery applicant or licensee in a calendar year that are valued at or above \$100,000 shall be certified by the Commission.*

(2) *A vendor that provides, or anticipates providing, the non-gaming related goods and services shall submit to the Commission a:*

(a) *Completed certification form in a format designated by the Commission that includes:*

(i) *Vendor name;*

(ii) *Vendor business address;*

(iii) *Each video lottery operation applicant or licensee in the State with which it does or expects to do business;*

(iv) *Type of service provided;*

(v) *Total value of goods or services provided to video lottery applicants or licensees in the State within a calendar year;*

(vi) *Any other jurisdiction where it conducts business related to a video lottery operation;*

(vii) *Verification that the vendor's business is in good standing with the Maryland Department of Assessment and Taxation; and*

(viii) *Any other information the Commission requires; and*

(b) *A certification fee of \$500.*

(3) *Upon receipt of a certification fee and completed certification form, the Commission shall verify the information provided by the vendor, and:*

[(1)] (a) If the Commission determines that the vendor's conduct of business with a video lottery operation applicant or licensee is consistent with the public interest of the State and the policies in State Government Article, Title 9, Subtitle [9-1A] 1A, Annotated Code of Maryland, and this subtitle, grant the vendor's application for [registration] certification; or

[(2)] (b) If the Commission determines that the vendor's conduct of business with a video lottery operation applicant or licensee is contrary to the public interest of the State or the policies in State Government Article, Title 9, Subtitle [9-1A] 1A, Annotated Code of Maryland, or this subtitle, deny the vendor's request for [registration] certification; and

[(3)] (c) (text unchanged)

[G.] F. [A] *Except as provided in §G of this regulation, a nonexempt vendor may not conduct business that relates to facility operations with a video lottery operation applicant or licensee until it [registers with] is registered or certified by the Commission.*

G. *Emergency Notification. An applicant or licensee may accept goods or services from a vendor that is not registered or certified by the Commission if:*

(1) *The applicant or licensee encounters an emergent threat to public health, safety, or welfare that is outside its control and requires immediate provision of goods or services by a vendor; and*

(2) *Unless the vendor is exempt under §C of this regulation:*

(a) *No later than the next State business day after the vendor's emergency provision of goods or services, the applicant or licensee submits to the Commission a vendor emergency notification form that includes an explanation of the need for its emergency use of a vendor that is not registered or certified by the Commission; and*

(b) *Within 20 business days of submitting the vendor emergency notification form:*

(i) *The applicant or licensee submits to the Commission a vendor registration form; or*

(ii) *The vendor submits to the Commission a vendor certification form and the \$500 certification fee.*

H. *A vendor's registration or certification:*

(1) *Remains in effect for 3 [calendar] years from the date the Commission approves registration or certification;*

(2) *May be renewed by the Commission if:*

(a) *The vendor submits] the applicable form [along with] and any fee are submitted as required under §D or E of this regulation at least 90 days before the expiration of 3 years from the date of written notification under [§F(3)] §D(3) or E(3)(c) of this regulation; [and*

(b) *The Commission makes a favorable determination under §F(1) of this regulation;]*

(3) *Shall automatically expire if a vendor does not comply with renewal requirements under [§H(2) of] this regulation; and*

(4) (text unchanged)

I. *The Commission's decision to deny or cancel a [vendor's request for] vendor registration or [cancel a vendor's registration] certification does not give rise to an appeal right under the contested case provisions of the Maryland Administrative Procedure Act.*

J. *The Commission may maintain and make publicly available a list of:*

(1) *[registered] Registered and certified vendors; and*

(2) *[vendors] Vendors that are prohibited from doing business with a video lottery operation applicant or licensee because the Commission has denied or canceled their registration or certification.*

K. *A video lottery operation applicant or licensee shall:*

(1) *Submit to the Commission a monthly vendor payments report in a format prescribed by the Commission; and*

(2) *Ensure that a vendor appearing on its monthly vendor payments report is:*

(a) *Registered;*

(b) *Certified; or*

(c) *Exempt.*

14.01.14 Video Lottery Facility Minimum Internal Control Standards

Authority: State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland

.37 Promotional Play.

A. (text unchanged)

B. A facility operator may not issue promotional play to a player equaling or exceeding \$5,000 per gaming day without approval from the chief executive or the chief executive's designee.

C. — E. (text unchanged)

F. *Limitation on Free Promotional Play.*

(1) *Through the first full fiscal year of a facility's operations, the proceeds of a facility exclude money given away by a licensee as free promotional play and used by players to bet in a video lottery terminal.*

(2) *After the first full fiscal year of a facility's operations, the amount of money given away as free promotional play in a fiscal year may not exceed a percentage of the facility's proceeds received in the prior fiscal year under State Government Article, §9-1A-27(a)(2) or (b)(1), Annotated Code of Maryland, that equates to 20 percent of total video lottery terminal proceeds the facility generated in the prior fiscal year.*

(3) *An amount of money given away as free promotional play in a fiscal year exceeding the percentage defined in §F(2) of this regulation of the facility's proceeds of the prior fiscal year shall be allocated as proceeds under State Government Article, §9-1A-27, Annotated Code of Maryland.*

G. *No later than 90 days after the end of the fiscal year, a facility operator shall submit to the Commission a written:*

(1) *Report of its use of free promotional play during the prior fiscal year; and*

(2) *Recommendation for any adjustment to the limitation on free promotional play established under §F(2) of this regulation.*

H. *For purposes of §§F and G of this regulation, "fiscal year" means the fiscal year of the facility operator.*

STEPHEN L. MARTINO
Director
State Lottery Agency

Subtitle 30 STATE HIGHER EDUCATION LABOR RELATIONS BOARD

Notice of Proposed Action [12-073-P]

The State Higher Education Labor Relations Board proposes to amend:

(1) Regulation .04 under COMAR 14.30.07 Unfair Labor Practices; and

(2) Regulation .12 under COMAR 14.30.11 Hearings.

This action was considered at an open public meeting on January 17, 2012.

Statement of Purpose

The purpose of this action is to make the service of petitions and the service of requests for the subpoenas slightly less cumbersome, and to clear up the service process.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Erica L. Snipes, Executive Director, MD State Labor Relations Boards, 7500 Ritchie Highway, Room 204-2A, Glen Burnie, MD 21061, or call 410-421-8478, or email to elsnipes@laborboards.maryland.gov, or fax to 410-421-8467. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

14.30.07 Unfair Labor Practices

Authority: State Personnel and Pensions Article, §§3-2A-05 — 3-2A-07, Annotated Code of Maryland

.04 Relief from Unfair Labor Practices.

A. — B. (text unchanged)

C. [A copy of the petition shall be served on all other parties.] The petitioner shall serve the respondent or respondents with a copy of the petition by mail, electronic mail, or hand delivery. Filers using electronic mail shall, within a reasonable time, provide a hard copy to the parties.

D. — M. (text unchanged)

14.30.11 Hearings

Authority: State Personnel and Pensions Article, §§3-2A-05 — 3-2A-07, Annotated Code of Maryland

.12 Subpoenas.

A. (text unchanged)

B. Request for subpoenas.

(1) A request for issuance of a subpoena shall:

(a) — (b) (text unchanged)

(c) Be sent by [certified mail or personal delivery for each party.] U.S. Post, electronic mail, or hand delivery to the Board and to each party. Filers using electronic mail shall, within a reasonable time, provide a hard copy to the Board and to each party.

C. — D. (text unchanged)

ERICA L. SNIPES
Executive Director
State Labor Relations Board

Title 24 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

Subtitle 05 ECONOMIC DEVELOPMENT

24.05.03 Biotechnology Investment Incentive Tax Credit

Authority: Economic Development Article, §2-108; Tax-General Article, §10-725; Annotated Code of Maryland

Notice of Proposed Action [12-075-P]

The Secretary of Business and Economic Development proposes to repeal existing Regulations .01—.11 and adopt new Regulations .01—.15 under COMAR 24.05.03 Biotechnology Investment Incentive Tax Credit.

Statement of Purpose

The purpose of this action is to describe the requirements and procedures for an investor to receive a certificate allowing it to claim a credit against the State income tax for an investment in a qualified Maryland biotechnology company and to describe the requirements and procedures for a biotechnology company to receive a certificate that it is a qualified Maryland biotechnology company.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The direct economic impact of the proposal is that, if fully subscribed, there would be a \$16,000,000 increase in equity investments in qualified Maryland biotechnology companies. Investors would receive a tax credit of \$8,000,000 to be applied against the investors' corporate or individual income tax liabilities. State of Maryland General Fund revenues and transportation trust fund (TTF) revenues would be affected.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	(R-)	\$8,000,000
C. On local governments:	(R-)	Undeterminable
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	(+)	Potential \$16,000,000 increase in equity of QMBCs
F. Direct and indirect effects on public:	(-)	Undeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B. The Act (Ch. 99, Acts of 2005, as amended by Ch. 518, Acts of 2008, by Chs. 605, 606, Acts of 2009, and by Ch. 349, Acts of 2011) creating the program requires the Comptroller to transfer money from the reserve fund to the General Fund in an amount that is anticipated to offset credits that would be claimed in any fiscal year. Twenty-four percent of corporate income tax revenue is distributed to the Transportation Trust Fund (TTF). All the money transferred from the reserve fund by the Comptroller in anticipation of credits being claimed is to be deposited in the General Fund and losses to the TTF would not be offset. As a result, General Fund revenues would increase and TTF revenues would decrease by a corresponding amount. The amount depends on the amount of credits claimed against the corporate income tax and cannot be readily estimated. It is also assumed that taxpayers will claim the credit in the tax year that corresponds to the fiscal year in which the Comptroller transfers funds to the General Fund on notification of a certified credit. To the

extent that taxpayers claim the credit in a tax year or adjust estimated quarterly payments or withholdings in a fiscal year different from the fiscal year in which the transfer is made, General Fund revenues could increase in the fiscal year of the transfer and potentially decrease by a corresponding amount in later fiscal years. This timing issue, however, does not alter the total cost of the program.

C. Local government revenues would decrease as a result of tax credit claims against the corporate income tax. Corporate income tax is distributed 76 percent to the General Fund and 24 percent to the TTF. Of the 24 percent transferred to the TTF, approximately 30 percent is distributed to local jurisdictions in the form of local highway user revenues. Individual income tax revenue is distributed 100 percent to the General Fund. There is no effect on expenditures.

E. There is a potential for a significant impact on early stage biotechnology companies with headquarters and operational facilities located in Maryland arising from the investment incentives created by the program for investors to invest in qualified Maryland biotechnology companies.

F. There is a potential for significant State General Fund expenditures. The amount of the expenditure in a fiscal year depends on the amount of money appropriated to the reserve fund in each year. There is a potential significant increase in General Fund revenues when the Comptroller transfers funds from the reserve fund to the General Fund and a corresponding decrease in TTF revenues due to reserve fund transfers for credits claimed against the corporate income tax.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The program provides an incentive to investors to invest in small early stage and young mezzanine stage biotechnology enterprises with not more than 50 employees and which are not publicly owned. Small businesses that meet the requirements for QMBC status under this chapter and whose investors qualify for tax credits will benefit from these regulations. There are about 500 bioscience companies in Maryland. To the extent that this tax credit program attracts additional investments in the biotechnology industry, qualifying biotechnology companies that are small businesses could benefit. Many of Maryland's biotechnology companies would not be considered to be small businesses. Small businesses in other industry sectors could be at a competitive disadvantage in the capital markets to the extent that the tax credit program causes investors to shift investment capital to the biotechnology industry.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mark Vulcan, Director, Tax Incentives, Division of Economic Development, Department of Business and Economic Development, World Trade Center Baltimore, 17th Floor, 401 East Pratt Street, Baltimore, MD 21202, or call 410-767-6438, or email to mvulcan@choosemaryland.org, or fax to 410-333-8309. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

.01 Purpose.

A. This chapter describes the:

(1) Requirements for a qualified investor to receive a certificate allowing it to claim a credit against the State income tax for an investment in a qualified Maryland biotechnology company;

(2) Criteria to be applied by the Department of Business and Economic Development to determine whether a company will be certified as a qualified Maryland biotechnology company; and

(3) *Procedures to be used by the Department of Business and Economic Development to:*

(a) *Receive, review, and approve or disapprove applications by investors claiming eligibility for the tax credit;*

(b) *Determine whether investors are qualified investors;*

(c) *Perform a criteria-referenced assessment and evaluation of companies to determine eligibility for certification as a qualified Maryland biotechnology company;*

(d) *Issue initial and final tax credit certificates;*

(e) *Issue certificates that a company is a qualified Maryland biotechnology company;*

(f) *Monitor and audit investments in qualified Maryland biotechnology companies;*

(g) *Monitor, audit, and make inquiries about:*

(i) *The continued eligibility of tax credit certificate holders for tax credits;*

(ii) *The continued eligibility for certification as a qualified Maryland biotechnology company; and*

(iii) *The continued presence of a qualified Maryland biotechnology company, and the continued maintenance by it of its headquarters and the base of its biotechnology activities, in the State;*

(h) *Rescind or revoke initial or final tax credit certificates; and*

(i) *Rescind or revoke certificates that a company is a qualified Maryland biotechnology company.*

B. *The Comptroller of the Treasury administers the tax credit, any recapture or assessment procedures in connection with the tax credit, and the Reserve Fund.*

.02 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Act" means Tax-General Article, §10-725, Annotated Code of Maryland.*

(2) *"Active business" has the meaning stated in Regulation .14D(5)(c) of this chapter.*

(3) *Actual Amount of an Investment.*

(a) *"Actual amount of an investment" means the amount expressed in United States currency of an investment that is:*

(i) *Paid in exchange for an equity interest or other ownership interest in a qualified Maryland biotechnology company;*

(ii) *Immediately available to the qualified Maryland biotechnology company for the purpose of engaging in its primary biotechnology activities; and*

(iii) *Substantially used to engage in the primary biotechnology activities.*

(b) *"Actual amount of an investment" does not include start up or organization expenses not deductible as current business expenses of the qualified Maryland biotechnology company.*

(4) *"Applicant" means a qualified investor that has filed an application for a certificate.*

(5) *"Biotechnology" has the meaning stated in Regulation .14C of this chapter.*

(6) *"Biotechnology company" means a company that is primarily engaged in the research, development, or commercialization of innovative and proprietary biotechnology.*

(7) *"Certificate" means an initial certificate or a final certificate of eligibility for tax credit under this chapter.*

(8) *Company.*

(a) *"Company" means any entity duly organized and existing under the law of any jurisdiction for the purpose of conducting business for profit.*

(b) *"Company" does not include an individual or a sole proprietorship.*

(9) *"Comptroller" means the Maryland Comptroller of the Treasury, or the Comptroller's designee.*

(10) *"Credit amount" means the amount of money expressed as United States currency approved by the Department with respect to an investment and set out in an initial certificate or a final certificate.*

(11) *"Department" means the Department of Business and Economic Development.*

(12) *Entity.*

(a) *"Entity" means an individual or a legal or juridical person which is:*

(i) *Created, organized, and existing under the laws of any jurisdiction; and*

(ii) *Subject to any express exclusions or limitations of particular entities set forth in the Act or this chapter.*

(b) *"Entity" includes a corporation, a limited liability company, a partnership, a limited partnership, a limited liability partnership, or a trust.*

(13) *"Final certificate" means a certificate issued by the Department stating the final credit amount approved by the Department.*

(14) *"Headquarters and base of operations" means the facility or facilities located in the State, where the qualified Maryland biotechnology company's financial, personnel, planning, management, administrative, biotechnology research, biotechnology development, and biotechnology production activities are primarily handled.*

(15) *"Initial certificate" means a certificate issued by the Department stating a maximum credit amount for which the applicant is eligible based on an application.*

(16) *Investment.*

(a) *"Investment" means the contribution of money in cash or cash equivalents expressed in United States dollars, at a risk of loss, to a qualified Maryland biotechnology company in exchange for stock, a partnership or membership interest, or other ownership interest, title to which equity or ownership interest vests in the qualified investor applying for an initial certificate of eligibility for tax credit.*

(b) *Investment does not include debt.*

(17) *"Investment notice" means the notice submitted by an applicant that the applicant has made an investment in a qualified Maryland biotechnology company.*

(18) *"Invests" means to pay money in cash or cash equivalents in exchange for an equity or other ownership interest in a qualified Maryland biotechnology company with a view to profit and financial return or the growth in value of the equity interest acquired, as a result of the qualified Maryland biotechnology company's use of the investment to carry on its biotechnology research, biotechnology development, and commercialization of biotechnology.*

(19) *"Ownership interest" means the equity interest in a qualified Maryland biotechnology company owned and held directly by an applicant free of any encumbrances.*

(20) *Qualified investor.*

(a) *"Qualified investor" means any entity that:*

(i) *Invests at least \$25,000 in a qualified Maryland biotechnology company; and*

(ii) *Is required to file an income tax return in any jurisdiction.*

(b) *"Qualified investor" does not include a qualified pension plan, individual retirement account, or other qualified retirement plan as defined by the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under these plans, or similar tax-favored plans or entities under the laws of other countries.*

(21) *Qualified Maryland Biotechnology Company (QMBC).*

(a) *"Qualified Maryland biotechnology company (QMBC)" means a biotechnology company:*

(i) *That has its headquarters and base of operations in the State;*

(ii) *That has fewer than 50 full-time employees;*

(iii) *That except as provided in §B(21)(b) of this regulation, been in active business not longer than 10 years;*

(iv) *Whose securities are not publicly traded on any exchange; and*

(v) *That has been certified as a qualified Maryland biotechnology company by the Department under this chapter.*

(b) *"Qualified Maryland biotechnology company (QMBC)" includes a company that has been in active business for up to 12 years if the Department determines that the company requires additional time to complete the process of regulatory approval of a biotechnology product.*

(22) *"QMBC certificate" means a certificate issued by the Department certifying that a company is a qualified Maryland biotechnology company.*

(23) *"QMBC certificate holder" means a company that has been certified by the Department as a qualified Maryland biotechnology company and has received from the Department a QMBC certificate evidencing that determination.*

(24) *"Recapture" means the process by which the Comptroller will recover all or part of any tax credit claimed by, or refund made to, an applicant.*

(25) *"Rescission" means the process by which the Secretary may rescind, make void, cancel, or render ineffective an initial certificate.*

(26) *"Rescission notice" means the notice issued by the Department to inform an applicant that an initial certificate has been rescinded.*

(27) *"Reserve Fund" means the Biotechnology Investment Tax Credit Reserve Fund which is administered by the Treasurer and the Comptroller.*

(28) *"Revocation" means the process by which the Department may revoke a final tax credit certificate or a QMBC certificate.*

(29) *"Risk of loss" means when repayment of an investment entirely depends upon the success of the business operations of the qualified company.*

(30) *"Secretary" means the Secretary of Business and Economic Development, or the Secretary's designee.*

(31) *"Tax credit" means the credit against Maryland income tax for an investment in a qualified Maryland biotechnology company equal to the credit amount approved by the Secretary in a final certificate.*

(32) *"Tax credit certificate holder" means an entity that has received an initial certificate or a final certificate from the Department under this chapter.*

(33) *"Treasurer" means the State Treasurer of Maryland, or the Treasurer's designee.*

.03 Applications for Certificate of Eligibility for Tax Credit.

A. *Biotechnology Investment Incentive Tax Credit Application. To claim eligibility for a tax credit and to be initially certified as eligible for a tax credit, an applicant shall submit to the Department, not less than 30 days before making an investment in a qualified Maryland biotechnology company, an application on a form approved by the Department.*

B. *An applicant may not file an application earlier than June 1 of the State fiscal year immediately preceding the State fiscal year in which the applicant intends to make the investment and claim eligibility for a tax credit.*

C. *Each application shall include the following:*

(1) *The legal name of the applicant;*

(2) *The street address of the principal place of business of the applicant, or the street addresses of the principals of the applicant, and the applicant's email address and telephone number;*

(3) *Except in the case of an individual applicant, the business mailing address, telephone number, and email address of an individual with authority to act on behalf of the applicant;*

(4) *The federal employer identification number of the applicant or, if the applicant is an individual, the Social Security number of the applicant; and*

(5) *Any other information required or requested by the Department.*

.04 Applications for Certificate of Eligibility for Tax Credit — Required Supporting Documents and Statements.

An applicant shall submit to the Department an application that includes:

A. *If the applicant is a corporation or limited liability company:*

(1) *Its legal name and the street and mailing address of its principal place of business and the applicant's email address and telephone number;*

(2) *A certified copy of its articles of incorporation, articles of organization, or other organizational documents, and all amendments to them;*

(3) *A certificate of good standing from the Maryland Department of Assessments and Taxation dated within 30 days of the date the application is filed, unless the applicant is not required to qualify or register to do business in the State of Maryland;*

(4) *The names and business addresses of its officers and directors; and*

(5) *The names and addresses of each of its shareholders or members who hold shares directly or indirectly or ownership interests of any class representing 5 percent or more of the total equity capital of the applicant.*

B. *If the applicant is a foreign entity in the nature of a stock corporation or limited liability company:*

(1) *All of the information required under §A of this regulation; and*

(2) *A certificate or other similar document, translated if necessary into standard English, from the appropriate official of the jurisdiction under the laws of which it is organized, attesting that it is duly organized, legally existing, and in good standing under the laws of that jurisdiction, and dated within 30 days before the date on which the application is filed.*

C. *If the applicant is a partnership, limited liability partnership, or limited partnership, or similar entity:*

(1) *A copy of its partnership agreement, and all amendments to it, certified as to completeness and accuracy by a general partner or a managing member;*

(2) *If applicable, a certified copy of its certificate of limited partnership or other similar publicly filed organizational document and all amendments or supplements to it; and*

(3) *The names and business addresses of its general partners or managing members.*

D. *If applicable, and if the applicant is a foreign limited partnership, limited liability partnership, or similar entity:*

(1) *All of the information required under §C of this regulation; and*

(2) *A certificate or other similar document, translated if necessary into standard English, from the appropriate official of the jurisdiction under the laws of which it is organized, attesting that it is duly organized, legally existing, and in good standing under the laws of that jurisdiction, and dated within 30 days before the date on which the application is filed;*

E. The full legal name of the qualified Maryland biotechnology company in which an investment is proposed to be made;

F. The federal employer identification number of the qualified Maryland biotechnology company in which an investment is proposed to be made;

G. A conformed copy of the Certificate of the Department that the qualified Maryland biotechnology company in which an investment is proposed to be made is a qualified Maryland biotechnology company; and

H. If the qualified Maryland biotechnology company in which an investment is proposed to be made has not been certified by the Department as a qualified Maryland biotechnology company, a verified application for certification as a qualified Maryland biotechnology company by and on behalf of the company in which the proposed investment is to be made, on a form approved by the Department under Regulation .13 of this chapter, setting forth the information and accompanied by the documents required by the Department in Regulation .13 of this chapter and in the instructions to that application.

.05 Tax Credit Certification Procedures — Initial Certificate.

A. Initial Certificate.

(1) Order of Approval of Applications.

(a) The Department shall review applications on a first-come, first-served basis.

(b) The Department shall disapprove:

(i) Incomplete applications;

(ii) Applications that fail to establish that the applicant is a qualified investor or otherwise eligible to claim a tax credit under this chapter; or

(iii) Applications that fail to establish that the company in which the proposed investment is to be made is a QMBC on the date on which the application is filed.

(c) Disapproved applications shall be treated as not having been filed for the purposes of assigning priority to other applications.

(2) Approval. Subject to the limitations set forth in §B of this regulation and the eligibility restrictions set forth in §C of this regulation, the Department shall approve and issue an initial certificate to the applicant by regular mail at the address contained in the application with a copy by regular mail to the QMBC at the address contained on the QMBC's application if:

(a) An applicant satisfies the definition of qualified investor; and

(b) The biotechnology company to which the investment is proposed to be made is certified by the Department as a qualified Maryland biotechnology company.

(3) Tax Credit Amount.

(a) The tax credit allowed in an initial certificate is 50 percent of the investment in a qualified Maryland biotechnology company, not to exceed \$250,000.

(b) The maximum amount of the tax credit shall be stated in the initial certificate.

B. Limitations on Issuance.

(1) For the purposes of this section, the Department will review, process, and make allocations of available tax credit on a first come, first served basis in the order in which individual applications are received.

(2) Fiscal Year Appropriation Limitation.

(a) For any State fiscal year, the Department may not issue initial certificates for credit amounts that in the aggregate total more than a maximum credit amount calculated separately at the time each application is ready for the Secretary's approval or disapproval and

in the order in which applications are received, taking into account the effect of rescinded certificates and revoked certificates, as follows:

(i) The sum of the amount appropriated to the Reserve Fund for the State fiscal year in question, and any excess amounts appropriated in prior State fiscal years and carried forward;

(ii) Reduced by the amount of any funds transferred from the Reserve Fund under the authority of any provision of law other than Tax General Article, §10-725 (g)(4), Annotated Code of Maryland; and

(iii) Increased by the amount of tax credit appearing on the face of any initial certificate issued in that State fiscal year and subsequently rescinded.

(b) Upon request of the Secretary, the Comptroller shall certify to the Secretary the amount of the available funds in the Reserve Fund as of a date certain. The request shall be accompanied by a certification of the Secretary of the aggregate amount of initial certificates issued in the State fiscal year in question through the date of the request.

(3) Fiscal Year Aggregate Tax Credit Limitation for Single QMBC.

(a) During any fiscal year of the State, the Department may not certify eligibility for tax credits for investments in a single qualified Maryland biotechnology company that in the aggregate exceed 15 percent of the total appropriations to the Reserve Fund for that fiscal year.

(b) The Department may not issue an initial certificate for a credit amount with respect to a single qualified Maryland biotechnology company that when aggregated with previously issued initial certificates issued with respect to the same qualified Maryland biotechnology company in the same fiscal year total more than the maximum credit amount for that company under §B(3)(a) of this regulation, calculated separately at the time each application is ready for the Department's approval or disapproval and taking into account the effect of rescinded certificates and revoked certificates with respect to the same single qualified Maryland biotechnology company.

(c) If there is any remaining balance of fiscal year aggregate tax credit under §B(3)(a) of this regulation with respect to a single qualified Maryland biotechnology company, and the amount of tax credit claimed in the next application in order with respect to that single qualified biotechnology company would exhaust or exceed that remaining balance of fiscal year aggregate tax credit under §B(3)(a) of this regulation with respect to that single qualified Maryland biotechnology company, then the Department shall issue an initial certificate for a credit amount that will exhaust the remaining available annual maximum credit amount for that company although less than the amount of the investment requested in that application.

C. Eligibility Restrictions.

(1) To be eligible for a tax credit, a qualified investor that is a company as opposed to an entity:

(a) Shall be duly organized, existing and in good standing in the jurisdiction under the laws of which it is organized;

(b) Shall be current in the payment of all tax obligations to the State or any unit or subdivision of the State; and

(c) May not be in default or arrears under the terms of any contract with, indebtedness to, or grant from the State or any unit or subdivision of the State.

(2) To be eligible for a tax credit under this chapter, a qualified investor, determined by application of the ownership attribution rules of Regulation .15 of this chapter, may not, after making the proposed investment, own or control more than 25 percent of the equity interests in the qualified Maryland biotechnology company in which the investment is made.

D. Date of Issuance or Disapproval. The Secretary shall approve the application and issue the initial certificate, or disapprove the application, within 30 calendar days after the applicant submits a completed application and any other information requested by the Department.

.06 Investment.

A. Investment. Within 30 calendar days after the date of an initial certificate, the applicant shall make the investment in the qualified Maryland biotechnology company.

B. Investment Notice. Within 10 calendar days after the date on which a qualified investor makes the investment in the qualified Maryland biotechnology company, the applicant shall provide to the Department a notice and proof of the making of the investment on a form or forms prescribed by the Department.

C. Evidence of Investment.

(1) The investment notice shall be supported by evidence of the investment and of the equity interest issued or acquired in consideration of the investment. This evidence shall include an affidavit, in a form approved by the Department, of the applicant or its principals affirming under penalty of perjury the facts constituting the making of the investment including:

(a) The date of the investment;

(b) The amount of the investment;

(c) Proof of the receipt of the investment by the qualified Maryland biotechnology company; and

(d) A complete description of the nature of the ownership interest in the equity of the qualified Maryland biotechnology company acquired in consideration of the investment.

(2) The Department may require additional documentation reasonably necessary to satisfy the Department as to the making of the investment and the nature of the ownership interest, including but not limited to cancelled checks, deeds, affidavits of officers or partners of the qualified Maryland biotechnology company, stock certificates, assignments, copies of amendments or supplements to shareholder or partnership agreements, executed investment agreements, securities law compliance filings, certifications of book entries, and reports of auditors.

.07 Tax Credit Certification — Final Certificate.

A. The Secretary shall issue a final certificate based on the actual amount of the investment as set forth in the investment notice.

B. The final certificate shall be issued within 30 calendar days after the applicant files the investment notice with the Department.

C. The issuance of the final certificate is subject to the Department's determination that the applicant made the investment and that the information in the application, the investment notice, and other documents is accurate and complete.

D. The final certificate shall include the following:

(1) The information provided under Regulation .03C(1)–(5) of this chapter;

(2) The actual amount of the investment;

(3) The exact date of the investment;

(4) The amount of the credit that can be claimed by the applicant; and

(5) The date of issuance of the final certificate.

.08 Audits and Inquiries.

A. Audits.

(1) The Department may require at any reasonable time before or after the issuance of a certificate that any information provided to the Department by an applicant be audited at the applicant's expense by an independent auditor selected by the applicant and reasonably satisfactory to the Department.

(2) The Department may require at any reasonable time an audit of any information submitted to the Department:

(a) By any company that applies for certification by the Department as a qualified Maryland biotechnology company; or

(b) By any company that has been certified by the Department as a qualified Maryland biotechnology company within the immediate past 4 calendar years.

(3) An audit under §A(2) of this regulation shall include, but is not limited to, the company's ownership, location, finances, capital structure, operations, facilities, equipment, contracts, research, development, and products.

(4) An audit under §A(2) of this regulation shall be conducted at the company's expense by an independent auditor selected by the company and reasonably satisfactory to the Department

(5) The Department may initiate an audit by delivering to the applicant or company a written request, for the performance of an audit stating the scope of the audit to be undertaken and the matters to be examined in the course of the audit.

(6) Within 10 business days after an applicant or company receives a request from the Department for the performance of an audit under §A(1) or (2) of this regulation, the applicant or company shall submit to the Department a written response naming the independent auditor selected by the applicant or company.

(7) If the Department approves the auditor, it shall give written notice to the applicant or company that the Department approves the auditor and shall provide instructions to the auditor for the scope and conduct of the audit. If the Department disapproves of the selected auditor, the Department shall give written notice to the applicant or company of the disapproval and of the reasons for it. The applicant or company shall, within 5 business days, select an alternative auditor and submit to the Department a written response naming the alternate independent auditor selected by the applicant or company.

(8) The auditor shall proceed to conduct the audit with due diligence and dispatch, and in accordance with the Department's instructions. Within 90 days of the Department's notice accepting the selection of an auditor, the auditor shall submit to the Department, and to the applicant or company a full report of its audit procedures, tests, matters examined, and findings.

B. Inquiries; Duty of Applicants and Companies to Respond.

(1) The Department may make written inquiry, including a request for the production, inspection, or copying of documents specified in the inquiry, of any applicant for or holder of a certificate to obtain information bearing on the eligibility or continuing eligibility of the applicant or holder. This inquiry may include, but may not be limited to, whether a qualified investor has sold, transferred, or otherwise disposed of the ownership interest in a QMBC based on which the certificate was issued.

(2) The Department may make written inquiry, including a request for the production, inspection, or copying of documents specified in the inquiry, of any company that makes an application to the Department for certification as a qualified Maryland biotechnology company, or that the Department has already determined to be a qualified Maryland biotechnology company, as to the facts and circumstances that affect the company's eligibility or continued eligibility for certification as a qualified Maryland biotechnology company. This inquiry may include, but may not be limited to the company's:

(a) Ownership;

(b) Location;

(c) Finances;

(d) Capital structure;

(e) Facilities;

(f) Equipment;

(g) Contracts,

- (h) Biotechnology research activities;
- (i) Biotechnology development activities;
- (j) Biotechnology production and manufacturing activities;
- (k) Intellectual property; and

(l) Whether the company has or continues to have its headquarters and base of operations in the State.

(3) An applicant or company to which a written inquiry from the Department is directed under §B(1) or (2) of this regulation shall submit a full and complete written response, with copies of all requested documents, within 45 days of the date of the inquiry. The response shall be verified as true and correct by oath or affirmation made under penalty of perjury by an individual or by an individual officer, partner, or member of the applicant or company.

.09 Rescission of Initial Tax Credit Certificate.

A. Rescission of Initial Certificate. The Secretary shall rescind an initial certificate if the applicant does not file the required notice and proof of the making of the investment within 40 calendar days after the date on which the Department issues an initial certificate. The Department shall notify the applicant and the Comptroller of the rescission.

B. Rescission Notice. The rescission notice shall:

- (1) Identify the applicant;
- (2) State the applicant's federal taxpayer identification number;
- (3) Identify the initial certificate that is rescinded;
- (4) State the reason for the rescission; and
- (5) State the date on which the rescission is effective.

C. Delivery of Rescission Notice. The Department shall send:

- (1) By regular mail, the rescission notice to the applicant at the address stated in the application;
- (2) By regular mail, a copy of the rescission notice to the QMBC at the address stated in the application; and
- (3) A copy of the rescission notice to the Comptroller.

D. Effect of Rescission. The credit amount allocated to the rescinded certificate shall revert to the Reserve Fund and shall be available in the applicable fiscal year for allocation by the Department to other initial certificates in accordance with the Act and this chapter.

.10 Revocation of Tax Credit Certificate.

A. The Department may revoke an initial or final certificate if the Department determines that any representation in connection with the application for the certificate was false when made. The revocation may be in full or in part as the Department may determine.

B. The Department shall notify the applicant of the revocation. The revocation notice shall:

- (1) Identify the applicant;
- (2) State the applicant's federal taxpayer identification number;
- (3) Identify the certificate that is revoked;
- (4) State the reason for the revocation;
- (5) State that the certificate is revoked;
- (6) State whether the revocation is in whole or in part;
- (7) If the revocation is in part, state what part of the credit amount has been revoked; and
- (8) State the date on which the revocation is effective.

C. The Department shall send:

- (1) By regular mail, the revocation notice to the applicant at the address stated in the application;
- (2) By regular mail, a copy of the revocation notice to the QMBC at the address stated in the application; and
- (3) A copy of the revocation notice to the Comptroller, after the expiration of any applicable period to file an appeal or for the resolution of any appeal under §E of this regulation.

D. After receiving a copy of the revocation notice under §C(2) of this regulation, the Comptroller shall make an assessment against the applicant to recapture.

E. Appeal.

(1) The applicant may appeal a revocation to the Department under COMAR 24.01.04.

(2) The applicant shall initiate a contested case by filing a notice of appeal with the Secretary within 30 days of the date of the revocation notice.

(3) The applicant's notice of appeal shall state the facts on which its appeal is grounded and state the relief sought by the applicant.

(4) Within 10 days of the receipt of a timely notice of appeal, the Secretary shall issue a notice of hearing pursuant to COMAR 24.01.04.03.

.11 Claiming the Tax Credit.

A. Only the applicant is eligible to claim the tax credit, or so much of the tax credit as is allocable to the permitted taxpayer.

B. The applicant may not claim the tax credit until the date of the issuance of the final certificate issued to the applicant.

C. The applicant shall claim the tax credit on the income tax return for the taxable year in which the applicant makes the investment in the qualified Maryland biotechnology company.

D. The date the applicant makes the investment in the qualified Maryland biotechnology company is the exact date of the investment as provided in the final certificate issued to the applicant.

E. The applicant shall claim the tax credit against the State income tax for the amount of the credit as provided in the final certificate issued to the applicant. If the amount of the credit exceeds the total tax otherwise payable for that taxable year, the applicant may claim a refund in the amount of the excess.

F. The applicant shall claim the tax credit by filing the required income tax return, with the following attachments:

- (1) A copy of the final certificate issued to the applicant;
- (2) An affidavit, in a form approved by the Comptroller, of the applicant or its principals, as provided in §G of this regulation; and
- (3) If applicable, a Schedule K-1 or other similar schedule filed with the applicant's federal income tax return showing the items of income, deduction, and credit allocated by the applicant to the owners of interests in the equity of the applicant.

G. An affidavit under §F(2) of this regulation shall state that, if within 2 years after the close of the taxable year in which a final certificate is issued to the applicant, the applicant sells, transfers, or disposes of the ownership interest in the qualified Maryland biotechnology company for which the tax credit was approved, the applicant shall give notice to the Comptroller on a form approved by the Comptroller.

H. If the applicant is subject to recapture, the applicant shall report the applicable amount on its Maryland income tax return for the taxable year in which the event causing the recapture occurred.

.12 Monitoring Continued Eligibility.

A. At any time before the expiration 4 years after the close of the taxable year for which a tax credit is certified under this chapter, the Department may require an applicant or holder of a certificate to produce and deliver to the Department for inspection any information specified in a written directive from the Department, for the purpose of determining the initial or continuing eligibility of the holder or applicant for tax credits.

B. At any time before the expiration of 4 years after the close of any taxable year for which a tax credit is approved with respect to an investment in a qualified Maryland biotechnology company, the Department may require the biotechnology company to produce and deliver to the Department for inspection any information for the

purpose of determining the company's initial or continuing eligibility for certification as a qualified Maryland biotechnology company.

.13 Procedures for Certification of Qualified Maryland Biotechnology Companies.

A. To be certified by the Department as a qualified Maryland biotechnology company, a biotechnology company shall file with the Department a verified application for certification as a qualified Maryland biotechnology company made under oath or affirmation subject to penalty of perjury. An application may be filed at any time.

B. Application.

(1) The application shall be in a form approved from time to time by Department.

(2) The biotechnology company's application shall be complete and shall provide the information and documents required by this chapter and the application form, and in the instructions to the application form.

C. Information and Documents to be Provided. The biotechnology company shall provide the information and documents required, requested, described, or listed in the application form and in the instructions to the application form, including but not limited to:

- (1) The full legal name of the company;
- (2) The street address of the principal place of business of the company, the mailing addresses of the officers, principals, or managing members of the company, and the company's web page URL, email address, and telephone number;
- (3) The mailing address, email address, and telephone number of an individual with authority to act on behalf of the company;
- (4) The company's federal employer identification number;
- (5) The company's Maryland State Department of Assessments and Taxation entity identification number;
- (6) The company's Maryland Unemployment Insurance account number assigned by the Department of Labor, Licensing and Regulation;
- (7) The company's most recent annual, quarterly, and monthly financial statements prepared in accordance with generally accepted accounting principles showing:

- (a) Contributed owners' equity of at least \$100,000; or
- (b) Noncurrent debt consisting of non-demand, non-callable loans, with terms of not less than 3 years, aggregating at least \$100,000;

(c) Noncurrent debt in the form of notes or other instruments with terms of not less than 3 years, convertible to equity securities of the QMBC, aggregating at least \$100,000;

(d) A capital structure including a combination of any of contributed owners' equity, noncurrent debt consisting of non-demand, non-callable loans, with terms of not less than 3 years, or noncurrent debt in the form of notes or other instruments with terms of not less than 3 years, convertible to equity securities of the QMBC, the total of all types of capital aggregating at least \$100,000; or

(e) Evidence of an award of non-dilutive grants (including SBIRs, STTRs or other grants) of \$100,000 or more;

(8) If the company will rely to any extent on noncurrent debt or noncurrent convertible debt to establish that its capital structure meets the requirements set forth in §C of this regulation, a statement of an independent certified public accountant certifying that under generally accepted accounting principles the company's debt so relied upon is correctly classified as noncurrent liabilities and has terms of not less than 3 years;

(9) If the applicant is a corporation or a limited liability company:

- (a) Its full legal name and the street and mailing addresses of its principal place of business;

(b) A certified copy of its articles of incorporation, articles of organization, or other organic organizational document, with all amendments through the date of the application;

(c) A certificate of good standing from the Maryland State Department of Assessments and Taxation dated not more than 90 days before the date on which the application is filed;

(d) If the applicant is a foreign entity, a certificate, translated if necessary into standard English, of the appropriate official of the jurisdiction under the laws of which it is organized attesting that it is duly organized, existing, and in good standing under the laws of that jurisdiction, dated within 90 days of the date on which the application is filed;

(e) The names and business addresses of all of its officers and directors or managing members; and

(f) The names and addresses of each of its shareholders or members who own or hold, directly or indirectly, shares or ownership interests of any class representing 5 percent or more of the aggregate equity capital of the applicant;

(10) If the applicant is a partnership, limited partnership, limited liability partnership, or similar entity:

(a) A copy of its partnership agreement, and all amendments to it, certified as to completeness and accuracy by a general partner;

(b) If applicable, a certified copy of its certificate of limited partnership or other similar publicly filed organizational document and all amendments or supplements to it;

(c) The names and business addresses of its general partners or managing members;

(d) If applicable, a certificate of good standing from the Maryland State Department of Assessments and Taxation dated not more than 90 days before the date on which the application is filed; and

(e) If the applicant is a foreign limited partnership, limited liability partnership, or similar entity, a certificate, translated if necessary into standard English, from the appropriate official of the jurisdiction under the laws of which it is organized, attesting that it is duly organized, existing, and in good standing under the laws of that jurisdiction, dated not more than 90 days before the date on which the application is filed;

(11) Copies of any shareholder agreement, subscription agreement, investor agreement, operating agreement, voting trust agreement, private placement memorandum, Regulation D disclosure document, or other instrument concerning or affecting the offer, issuance, or ownership of equity interests in the company which has been or will be delivered to investors or to which investors in the company are or will be parties;

(12) The company's business plan, which shall contain:

(a) A description of the company in sufficient detail to establish that the company is actually and actively engaged in activities constituting biotechnology as defined in Regulation 14C of this chapter and that it meets the criteria for a qualified Maryland biotechnology company stated in this chapter;

(b) A factual narrative describing the company from its inception through the date of the application in sufficient detail to establish that it is organized, is actively engaged in the conduct of a biotechnology business in the State, and in fact operates as a biotechnology company in the State as of the date of the filing of the application, and that it will continue to do so in the future; and

(c) Statements or descriptions of the company's

- (i) Strategy;
- (ii) Product descriptions and highlights;
- (iii) Management;
- (iv) Board of directors or equivalent management;
- (v) Financing plans including potential exit strategies;
- (vi) Intellectual property assets;

- (vii) Plans for the predictable progression of its innovative product as research;
- (viii) Development, and production milestones;
- (ix) Contingency provisions for experimental or clinical failure;

- (x) Commercialization plans;
- (xi) Contracts for the performance of biotechnology activities on behalf of the company by third persons; and
- (xii) Full-time and part-time employees employed in the State and outside of the State and the numbers of such employees;

(13) Copies of any private placement memorandum, prospectus, or similar disclosure and information documents, and any filings with securities regulatory agencies, prepared or made by the qualified Maryland biotechnology company as issuer in connection with the investment;

(14) A description of the uses and purposes to which the investment will be applied by the qualified Maryland biotechnology company;

(15) A signed statement of the applicant made under penalty of perjury that the contents of the application are true to the best of the knowledge, information, and belief of the applicant and of its officer or other duly authorized representative making the statement on behalf of the applicant, and attesting that the applicant is:

(a) In good standing and authorized to do business in the State;

(b) Current in the payment of all tax obligations to the State or to any unit or subdivision of the State; and

(c) Not in default under the terms of any contract with, indebtedness to, or grant from the State, or any unit or subdivision of the State;

(16) Affirmative evidence by certification in a form prescribed and approved by the Department and made under oath or affirmation subject to penalty of perjury by an officer or other person duly authorized to make statements on behalf of the biotechnology company attesting that the biotechnology company is:

(a) In good standing and authorized to do business in the State;

(b) Current in the payment of all tax obligations to the State or to any unit or subdivision of the State; and

(c) Not in default under the terms of any contract with, indebtedness to, or grant from the State, or any unit or subdivision of the State; and

(17) A statement by an officer or duly authorized representative of the qualified Maryland biotechnology company describing the qualified Maryland biotechnology company's intended use or application of the investment.

D. Other Documents and Information. The following documents are not required at the time of submission of the QMBC application but may be requested by the Department to substantiate or expand upon information provided in the QMBC application:

(1) Descriptions of the biotechnology intellectual property owned by or assigned to the company or in which the company has rights under license or other agreements listed as invention disclosures or patents by title with dates of application and expiration;

(2) Copies of patents, intellectual property license and use agreements, and new product clinical testing studies, reports, and related governmental approval proceedings to which the company is a party may be requested by the Department on an as needed basis;

(3) A description of the sites, buildings, and facilities owned, leased, used, or occupied by the company in the State and outside of the State, including:

(a) The street address of each site, building, or facility;

(b) A tax parcel map for each site, building, or facility identifying the location of each site, building, or facility;

(c) A copy of the most recent real property tax assessment and property tax bill for each parcel of real property that the company occupies as owner of the property;

(d) A copy of any lease with respect to each site, building, or facility that the company occupies under a lease of the real property;

(e) Copies of contracts for the performance of biotechnology activities on behalf of the company by third parties;

(f) The number of full-time and part-time employees of the applicant employed in the State as well as those outside of the State shall be stated in the business plan;

(g) A statement of the number of employees at each site, building, or facility and the titles, job descriptions, and duties of each employee; and

(h) A detailed description of the company's biotechnology research, development, or production activities and the company's business, financial, and administrative operations carried on at each site, building, or facility;

(4) A full physical description of the company's headquarters site, building, or facility;

(5) A full physical description, including installed machinery and equipment for biotechnology activities, of the sites, buildings, and facilities constituting the company's base of operations; and

(6) A description of the company's plans or intentions to purchase, lease, or otherwise acquire sites, buildings, or facilities at any time and in any location with 36 months of the date on which the application is filed.

E. Issuance or Denial of Certificate.

(1) Based on the information set forth in the company's application, the Department may issue:

(a) A certificate that a company is a qualified Maryland biotechnology company; or

(b) A written determination that a company is not a qualified Maryland biotechnology company.

(2) The issuance of a certificate that a company is a qualified Maryland biotechnology company is subject to the Department's determination that:

(a) The information in the application and other documents submitted by the company is accurate;

(b) The company maintains its headquarters and base of biotechnology operations in the State as required by the Act and this chapter; and

(c) The company is eligible for certification as a qualified Maryland biotechnology company under the Act and this chapter.

(3) The Department's decision to issue or not to issue a certificate that a company is a qualified Maryland biotechnology company is final and not subject to further administrative review. The Department may revoke a certificate upon a determination by the Department that the company has become ineligible for certification.

.14 Criteria for Certification of Qualified Maryland Biotechnology Companies.

A. The Department shall assess the merits of a company's application for certification as a qualified Maryland Biotechnology company according to:

(1) The criteria set forth in this chapter;

(2) The definition of biotechnology stated in §C of this regulation; and

(3) Other metrics and measures that the Secretary may adopt for uniform application under this chapter.

B. The Department shall apply a facts and circumstances analysis on a case by case basis to determine whether a company meets the criteria of this chapter.

C. Biotechnology.

(1) Definition.

(a) "Biotechnology" means innovative and proprietary technology that comprises, interacts with, or analyzes biological material including biomolecules (DNA, RNA, or protein), cells, tissues, or organs and includes the application of scientific and technical advances to develop commercial products.

(b) "Biotechnology" includes the following:

(i) DNA/RNA: Genomics, pharmacogenomics, gene probes, genetic engineering, DNA/RNA sequencing/synthesis/amplification, gene expression profiling, and use of antisense technology;

(ii) Proteins and other biomolecules including sugars, lipids, vitamins and metabolites; sequencing, synthesis, or engineering of molecules; improved delivery methods for drugs; isolation; purification, and identification of cell receptors;

(iii) Cell and tissue culture and engineering: Cell/tissue culture, tissue engineering (including tissue scaffolds and biomedical engineering), cellular fusion, vaccine/immune stimulants, embryo manipulation;

(iv) Process biotechnology techniques: fermentation using bioreactors, bioprocessing, bioleaching, biopulping, bioleaching, biodesulphurisation, bioremediation, biofiltration, and phytoremediation;

(v) Gene and RNA vectors: gene therapy, viral vectors;

(vi) Bioinformatics: construction of databases on genomes, protein sequences; modeling complex biological processes, including systems biology and mechanism of actions of drugs; and

(vii) Nanobiotechnology: Applies the tools and processes of nano/microfabrication to build devices for studying biosystems and applications in drug delivery, diagnostics, and other applications.

(2) Single Definition.

(a) Section C(1)(a) of this regulation is referred to in this chapter as "the single definition". The single definition is deliberately broad, general, and provisional. The single definition applies to the word "biotechnology" as used in the term "biotechnology company" stated in Tax-General Article, §10-725(a)(2), Annotated Code of Maryland.

(b) The single definition connotes the manipulation of living organisms or their components to produce useful commercial products and the innovative and proprietary technologies of biological science used in this manipulation.

(3) List-Based Definition. The list-based definition is based on the list of biotechnology techniques in §C(1)(b) of this regulation and will function for the Department as an interpretative guideline to the single definition. The list is indicative rather than exhaustive and is expected to change over time as biotechnology techniques evolve.

(4) The single definition covers all modern biotechnology but also many traditional or borderline activities. In application by the Department under this chapter, the single definition will always be accompanied by the list-based definition stated in §C(1)(b) of this regulation when the Department applies the single definition to particular facts and circumstances for the purposes of this chapter. The single definition and the list definition will be applied in conjunction under this chapter to take account of and to consider biotechnology techniques that fit the single definition but may not fit the list-based definition, with a view to constantly updating the list-based definition.

D. Criteria for a Biotechnology Company.

(1) A biotechnology company is a company primarily dedicated to turning the biological sciences into a commercial product and to commercialize the results. The Department shall apply the single definition and the list definition to determine whether a company's activities or products constitute biotechnology for the purposes of the Act and this chapter.

(2) The scientific biotechnological basis of the company's activities and plans is defining, but not conclusive.

(3) The company shall demonstrate that the investment it will attract by reason of the tax credit available under the Act and this chapter will be likely to:

(a) Materially advance and support the business viability of the company; and

(b) Result in the production of a biotechnology product that will contribute to economic development and employment growth in the State.

(4) Stage of Development. The company shall:

(a) Have begun active activities and operations and fairly be characterized as actively engaged in a biotechnology business;

(b) Be fully legally organized under the laws of the jurisdiction in which it was organized;

(c) Have competent management;

(d) Own or have immediately available and useable rights in biotechnology-related intellectual property; and

(e) Be actively engaged in research, development, or production of a commercially oriented, innovative, and patent protectable biotechnology product.

(5) Eligibility: "Active Business".

(a) Except as provided in §C(5)(b) of this regulation, a company is eligible for certification as a qualified Maryland biotechnology company if it has been in active business not longer than 10 years.

(b) A company that has been in active business for up to 12 years may be eligible for certification as a QMBC if the Department determines that the company requires additional time to complete the process of regulatory approval of a biotechnology product.

(c) "Active business" means that the Department can reasonably determine and establish the nature of the Company's commercial biotechnology research, development or production operations. The mere legal organization, appointment or election of officers or managers, initial capitalization, and establishment of business offices of a company, alone or in combination, are not sufficient to establish that the company is engaged in active business for the purposes of this chapter and the Act.

(d) The Department shall apply a facts and circumstances analysis on a case by case basis to determine whether a company has been engaged in active business and for what period of time.

(6) Commercialization of an Identifiable Biotechnology Product.

(a) The company shall have a developed, focused plan for:

(i) Research and development of an identifiable biotechnology product; and

(ii) The company's growth.

(b) A biotechnology product will generally be:

(i) Used for human health, as in a therapeutic or diagnostic setting (for example, to treat, detect, or prevent diseases or to improve treatment outcomes);

(ii) Used on domesticated or farm animals, as in a therapeutic or diagnostic setting (for example, to improve animal health); or plants (for example to increase agricultural production); or

(iii) An application originally derived from use of a living organism, as in production of alternative energy (e.g., biofuels) or engineering or chemistry derived from nature to improve properties of products (for example, re-engineering of attachment molecules used by mollusks for the next SuperGlue®).

(c) In general, companies will not be certified that provide a service (e.g., analytical services or consulting services, etc.) or develop software, or develop or manufacture products or technology that do not involve use or application of biotechnology.

(d) A device may constitute eligible biotechnology if:

(i) It delivers a direct therapeutic effect through biological interaction; or

(ii) It performs a diagnosis through analyzing biological material.

(7) *Innovative Biotechnology Projects and Products.* The company shall provide evidence with its application that its existing or proposed biotechnology product is innovative and has the potential for commercial sale. The company must generally own the intellectual property or have exclusive rights to the use of the intellectual property.

(8) *Maryland Location.*

(a) The company shall demonstrate that its headquarters and the base of its biotechnology operations are entirely located in the State.

(b) The company shall provide with its application evidence that it will maintain its headquarters, the base of its biotechnology operations, and the sites, buildings, and facilities in which its headquarters and biotechnology operations are or will be conducted, in the State for a period of not less than 48 months after the date on which its application for certification as a qualified Maryland biotechnology company is submitted to the Department.

.15 Ownership Attribution.

A. General.

(1) *Members of Family.*

(a) *In General.* An individual shall be considered as owning the stock, partnership interest, membership interest, or other equity interest in a company owned, directly or indirectly, by or for the individual's:

(i) Spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance); and

(ii) Children, grandchildren, and parents.

(b) *Effect of Adoption.* For purposes of §A(1)(a)(ii) of this regulation, a legally adopted child of an individual is treated as a child of that individual by blood.

(2) *Attribution from Partnerships, Estates, Trusts, and Corporations.*

(a) *From Partnerships and Estates.* Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for a partnership or estate is considered as owned proportionately by its partners or beneficiaries.

(b) *From Trusts.*

(i) Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for a trust (other than an employees' trust described in section 401(a) of the Internal Revenue Code which is exempt from tax under section 501(a) of the Internal Revenue Code) is considered as owned by its beneficiaries in proportion to the actuarial interest of the beneficiaries in the trust.

(ii) Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners) is considered as owned by that person.

(c) *From Corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, that person is considered as owning the stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for the corporation, in that proportion which the value of the stock which the person so owns bears to the value of all the stock in the corporation.

(3) *Attribution to Partnerships, Estates, Trusts, and Corporations.*

(a) *To Partnerships and Estates.* Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for a partner or a beneficiary of an estate is considered as owned by the partnership or estate.

(b) *To Trusts.*

(i) Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in section 401(a) of the Internal Revenue Code which is exempt from tax under section 501(a) of the Internal Revenue Code) is considered as owned by the trust.

(ii) Stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under Subpart E of Part I of Subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners), is considered as owned by the trust.

(c) *To Corporations.* If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, that corporation shall be considered as owning the stock, partnership interests, membership interests, or other equity interests in a company owned, directly or indirectly, by or for the person.

(4) *Options.* If a person has an option to acquire stock, that stock is considered as owned by that person. An option to acquire an option, and each one of a series of these options, is considered as an option to acquire the stock.

B. Operating Rules.

(1) *In General.* Except as provided in §B(2) and (3) of this regulation, stock, partnership interests, membership interests, or other equity interests in a company constructively owned by a person by reason of the application of §A(1), (2), or (3) of this regulation is, for purposes of applying §A(1), (2), and (3) of this regulation, considered as actually owned by the person.

(2) *Members of Family.* Stock, partnership interests, membership interests, or other equity interests in a company constructively owned by an individual by reason of the application of §A(1) of this regulation is not considered as owned by the individual for purposes of again applying §A(1) of this regulation in order to make another the constructive owner of the stock.

(3) *Partnerships, Estates, Trusts, and Corporations.* Stock, partnership interests, membership interests, or other equity interests in a company constructively owned by a partnership, estate, trust, or corporation by reason of the application of §A(3) of this regulation is not considered as owned by it for purposes of applying §A(3) of this regulation in order to make another the constructive owner of the stock.

(4) *S Corporation treated as Partnership.* For purposes of this section:

(a) An S corporation is treated as a partnership; and

(b) Any shareholder of the S corporation is treated as a partner of the partnership, except that this does not apply for purposes of determining whether stock in the S corporation is constructively owned by any person.

CHRISTIAN JOHANSSON

Secretary of Business and Economic Development

Title 27

CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS

Subtitle 01 CRITERIA FOR LOCAL CRITICAL AREA PROGRAM DEVELOPMENT

Notice of Proposed Action

[12-085-P]

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays proposes to:

(1) Amend Regulation .01 under COMAR 27.01.10 Directives for Local Program Development;

(2) Repeal existing Regulation .01 and adopt new Regulations .01—.07 under COMAR 27.01.11 Directives for Updating Critical Area Maps; and

(3) Adopt new Regulation .01 under a new chapter, COMAR 27.01.12 Variances.

This action was considered by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays at an open meeting held on February 1, 2012 pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to adopt regulations for mapping the 1,000 foot Critical Area boundary line. The regulations will list the appropriate source documents to use in the mapping process, the mapping methodology for accessing the physical features of the shoreline, the mapping methodology for determining the Critical Area classification of new lands in the Critical Area, the process for approval of an updated Critical Area map, and the periodic review of the maps. Updating the maps periodically will ensure the most accurate boundary line. In addition, these maps will be maintained by the Commission and accessible to all on the internet.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lisa Hoerger, Regulations Coordinator, Critical Area Commission, 1804 West Street, Suite 100, Annapolis, Maryland 21401, or call 410-260-3478 TTY:800-681-8978, or email to lhoerger@dnr.state.md.us, or fax to 410-974-5338. Comments will be accepted through April 23, 2012. A public hearing has not been scheduled.

27.01.10 Directives for Local Program Development

Authority: Natural Resources Article, §8-1806, Annotated Code of Maryland

.01 Criteria.

In developing their Critical Area Programs, local jurisdictions shall use the following general program criteria:

A. — C. (text unchanged)

D. Local permitting and approval processes shall be coordinated so that cumulative impacts of regulated activities can be readily assessed. [Local jurisdictions shall maintain records of the area of land that converts from resource conservation area to intensely developed or limited development Areas and that converts from limited development areas to intensely developed areas.]

E. *Local jurisdictions shall maintain records of the area of land that converts from resource conservation area to intensely developed or limited development areas and that converts from limited development areas to intensely developed areas.*

[E.] F. — [L.] M. (text unchanged)

[M. Controls in a local program, beyond those required by other State programs or statutes, designed to prevent the runoff of pollutants, need not be required on sites where the topography prevents runoff from either directly or indirectly entering the tidal waters.]

N. (text unchanged)

O. The program shall require that all project approvals shall be based on findings that projects are consistent with the following goals of the Critical Area Law:

(1) — (2) (text unchanged)

(3) Establish land use policies for development in the Chesapeake [Bay] and Atlantic Coastal Bays Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

P. (text unchanged)

27.01.11 [Variances] Directives for Updating Critical Area Maps

Authority: Ch. 119, Acts of 2008, §§ 2-4

.01 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) “Department” means the Department of Natural Resources.

(2) “Final approved map” means the locally approved map that has been approved by the Commission.

(3) “Initial map update” means the first time after 2008 that a local jurisdiction, working cooperatively with the Department, the Department of the Environment, and the Commission in accordance with the provisions of this chapter, develops a map of the local jurisdiction’s Critical Area that is based on the aerial photography obtained in 2007—2008 during the development of the Statewide Base Map.

(4) “Locally approved map” means the summary draft map that has been approved by the local jurisdiction.

(5) “Summary draft map” means the map that is transferred to the local jurisdiction for formal review and approval.

(6) *Unclassified Wetland.*

(a) “Unclassified wetland” means an area of wetlands that at the time of original mapping was not classified as an intensely

developed area, a limited development area, or a resource conservation area.

(b) "Unclassified wetland" includes a transitional area of mud flats, marsh hummocks, and eroding wetlands that was not originally classified at the time of original mapping and may have moved or been reconfigured due to natural tidal conditions.

(7) "Working draft map" means a map of a local jurisdiction's Critical Area that is based on the aerial photography obtained in 2007–2008 during the development of the Statewide Base Map, as modified during the course of review by the Department, the Commission, or the local jurisdiction.

.02 Construction of this Chapter.

The mapped shoreline and landward boundary of tidal wetlands shown on a working draft map, a summary draft map, a locally approved map, or a final approved map of the Critical Area may not be construed to represent an official wetland delineation or change a statutory provision under Environment Article, Title 16, Annotated Code of Maryland, a regulatory provision under COMAR Title 26, Subtitle 24, or any other provision related to a project-specific wetland delineation that may be necessary and appropriate.

.03 Source Data Authorized for the Update of a Critical Area Map.

A. In order to update maps of the Critical Area, the Department and the Commission shall use the best available source information, including:

- (1) 2007 or 2008 true color imagery or any other imagery determined appropriate by the Department and the Commission;
- (2) Rectified 1972 State Tidal Wetlands maps;
- (3) 2007 or 2008 color infrared imagery or any other imagery determined appropriate by the Department and the Commission;
- (4) Local topographic data;
- (5) Light Detection and Ranging data;
- (6) Mapping resources of a local jurisdiction;
- (7) Soils data; or
- (8) Topographic maps of the United States Geological Survey Standard Series.

B. In addition to the source information specified under §A of this regulation, the Department and the Commission may, at their discretion, use additional sources that they regard as relevant, including an on-site evaluation, a map, a photograph, or permit information.

.04 Mapping Methodology for the Assessment of Physical Features.

A. Using the source information under Regulation .03 of this chapter, the Department and the Commission shall digitize the shoreline and the edge of tidal wetlands.

B. The Department and the Commission shall determine the location of the shoreline by remote sensing and an evaluation of:

- (1) The location of vertical shoreline structures;
- (2) The location of water at the time of image capture;
- (3) An estimate of the high tide limit, based on photo interpretation and collateral data; and
- (4) On sandy beaches, the location of a debris line or the wettest land.

C. Except for a structural shoreline stabilization measure that is located offshore, the Department and the Commission shall map the shoreline:

- (1) At the landward edge of a bulkhead;
- (2) At the midpoint between the waterline and the upland edge of a revetment;
- (3) Around the landward edge of a man-made groin or jetty that is at least 30 feet in width; and
- (4) Along the shoreline when a man-made groin or jetty is less than 30 feet in width.

D. Except for a living shoreline or a mudflat, the Department and the Commission shall map the following land features as upland:

- (1) An upland island surrounded by open water;
- (2) An upland area surrounded by a tidal wetland if the upland area:

(a) Was mapped as upland on the 1972 tidal wetlands maps and is at least one acre in size; or

(b) Except for a duckblind or a water-dependent facility, is developed with a legally authorized improvement; and

(3) A dredged material containment facility surrounded by open water that is part of a State-sponsored restoration project with conservation and habitat protection as essential elements of its operation.

E. A local jurisdiction shall not construe the mapping of an area as a wetland or an upland to affect the allowable density or the number of development rights of that newly mapped area as part of a map update, except in accordance with written requirements and procedures in a local jurisdiction's Critical Area program.

F. A local jurisdiction may include within the Critical Area land located more than 1,000 feet from tidal waters or tidal wetlands if the newly included area is:

- (1) Completely surrounded by Critical Area land and is:
 - (a) Up to one acre in size and adjoins an intensely developed area or a limited development area, by which the designation of the newly included area becomes an intensely developed area or a limited development area;
 - (b) Up to two acres in size and adjoins a resource conservation area, by which the designation of the newly included area becomes a resource conservation area; or
 - (c) Greater than the acreage limits in §F(1)(a) and (b) of this regulation if:
 - (i) A local jurisdiction proposes alternative mapping standards; and
 - (ii) The alternative standards are approved by the Commission; or
- (2) An environmentally sensitive area contiguous to the Critical Area that is approved by the Commission.

G. The Department and the Commission, in collaboration with a local jurisdiction, shall maintain the Critical Area layer of the Statewide Base map.

H. Each map of the Critical Area layer of the Statewide Base map shall include:

- (1) A State-determined shoreline;
- (2) A State-determined landward boundary of tidal wetlands;
- (3) A digitally generated, georeferenced 1,000-foot Critical Area boundary; and
- (4) Land newly included within the Critical Area under §F of this regulation.

.05 Mapping Methodology for Critical Area Classifications.

A. The Department, the Commission, and the local jurisdiction shall:

- (1) In accordance with the standards under Regulation .04 of this chapter and in cooperation with the Department of the Environment, review the digitized shoreline and the landward edge of tidal wetlands that are indicated on the working draft map;
- (2) Where applicable, use the existing Critical Area classification for an area shown on the working draft map that was previously included within the Critical Area;
- (3) In accordance with the standards under §B of this regulation, assign a Critical Area classification to an area that is newly included in the Critical Area on the working draft map; and
- (4) Work cooperatively to apply the provisions of this chapter to the working draft map and resolve any conflict that may arise.

B. In order to determine the Critical Area classification for an area newly included in the Critical Area on the working draft map, the Commission and a local jurisdiction shall use the mapping standards in COMAR 27.01.02.03—.05.

C. Except as required under §D of this regulation, a local jurisdiction shall classify an area newly included in the Critical Area in accordance with at least one of the following factors:

- (1) Current land use based on present conditions;
- (2) Adjacent land use based on present conditions;
- (3) Future land use based on an approved, platted subdivision even if the lots newly included in the Critical Area are nonconforming under local Critical Area requirements in effect at the time of delivery of the summary draft map to the local jurisdiction; or
- (4) Proposed land use based on future conditions if the local jurisdiction:

- (a) Accepted for processing an application for a subdivision, final site plan, or other final approval at least 90 days before the date of delivery of the summary draft map to the local jurisdiction; and

- (b) Issues a written final approval for the application within 2 years of the date of delivery of the summary draft map to the local jurisdiction.

D. A local jurisdiction shall classify a dredged material containment facility as a resource conservation area if the facility is:

- (1) Surrounded by open water; and
- (2) A State-sponsored island restoration project with conservation and habitat protection as essential elements of its operation.

E. A local jurisdiction may not use a dredged material containment facility that meets the requirements of §D of this regulation to generate growth allocation.

F. At the time of a development application, a local jurisdiction shall classify an unclassified wetland as a resource conservation area if it is determined to be an upland area or a private wetland.

G. A local jurisdiction shall provide to the Commission a list of all parcels and lots that meet the requirements under §C(3) and (4) of this regulation, including the tax map and parcel number of each lot and parcel, as documentation that growth allocation will not be necessary.

H. As part of the mapping process, a local jurisdiction shall provide to the Commission documentation for those instances where the Critical Area boundary was moved and the resulting Critical Area classification is different from the adjacent Critical Area classification.

I. A local jurisdiction may propose alternative criteria for development to address an instance in which an area newly included in the Critical Area, as a result of changes in the Critical Area boundary during a map update, would be rendered nonconforming or unbuildable without a variance.

J. Federal lands not given a Critical Area classification are managed in accordance with the Coastal Zone Management Act, 16 U.S.C. §§1451—1464.

.06 Process for Approval of an Updated Critical Area Map.

A. Upon completion of a local jurisdiction's review of a working draft map, including its proposed critical area classifications for all areas newly included in the Critical Area, the Department and the Commission shall incorporate all necessary revisions and prepare a summary draft map for the local jurisdiction.

B. The Department and the Commission shall deliver to the local jurisdiction a summary draft map of that jurisdiction's Critical Area that:

- (1) Identifies the shoreline and landward boundary of tidal wetlands by use of the most recent aerial imagery or the best available aerial imagery of comparable scale; and

- (2) Ensures that the 1,000-foot Critical Area boundary is accurate to a scale of 1 inch equals 100 feet.

C. Except as authorized under §D of this regulation, within 24 months of the date of delivery of the summary draft map under §A of this regulation, a local jurisdiction shall complete the process of local approval.

D. The initial map update of a local jurisdiction's Critical Area map may occur in coordination with the local jurisdiction's 6-year comprehensive review process, as required under Natural Resources Article, §8-1809(g), Annotated Code of Maryland, if the local jurisdiction provides evidence satisfactory to the Commission that reasonable progress has been made toward approval of its summary draft map.

E. Upon receipt of a summary draft map under §B of this regulation, a local jurisdiction shall:

- (1) Provide public notice of its review of the final draft for approval;
- (2) Hold at least one public hearing;
- (3) Provide a reasonable public comment period; and
- (4) Review and approve the summary draft map in accordance with local procedures for map amendments.

F. Upon the completion of all public hearings and the comment period, the local jurisdiction shall amend its local Critical Area program by approving all elements of the summary draft map, including:

- (1) The shoreline and landward boundary of tidal wetlands;
- (2) The digitally generated and georeferenced Critical Area 1,000-foot boundary line which may be adjusted in accordance with Regulation .04 F of this chapter; and
- (3) In accordance with Regulation .05 of this chapter, Critical Area classifications of all areas newly included in the Critical Area.

G. Upon completion of the approval process under this regulation, the local jurisdiction shall forward its locally approved map to the Commission for final approval.

H. In accordance with Natural Resources Article, §§ 8-1807 and 8-1809, Annotated Code of Maryland, when the Commission approves the locally approved map:

- (1) It becomes the final approved map; and
- (2) The final approved map shall be the officially designated map of the Critical Area for that local jurisdiction.

I. The local jurisdiction shall adopt the final approved map by incorporating it into its Critical Area program in accordance with its process for adoption of local law.

.07 Periodic Review of a Local Critical Area Map.

A. Beginning with the date on which the Department and the Commission delivered a summary draft map to a local jurisdiction under Regulation .06B of this chapter, at least once every 12 years thereafter:

- (1) The Department, the Commission, and the local jurisdiction shall conduct a review of the local Critical Area map; and
- (2) The local jurisdiction shall submit any proposed map updates to the Commission for approval.

B. The Commission shall determine the appropriate process for consideration and approval of the local jurisdiction's proposed map updates.

C. An update of a local jurisdiction's Critical Area map that is after the initial map update may occur in coordination with the local jurisdiction's 6-year comprehensive review process, as required under Natural Resources Article, §8-1809(g), Annotated Code of Maryland, if the local jurisdiction provides evidence satisfactory to the Commission that reasonable progress has been made on its comprehensive review and on the review of its maps.

27.01.12 Variances

Authority: Natural Resources Article, §8-1808, Annotated Code of Maryland

.01 Local Programs.

A. In the preparation of local programs, local jurisdictions shall make provision for the granting of variances to these criteria where, owing to special features of a site or other circumstances, local government implementation of this subtitle or a literal enforcement of provisions within the jurisdiction's Critical Area program would result in unwarranted hardship to an applicant. These variance provisions shall be designed in a manner consistent with the spirit and intent of this chapter and all local Critical Area program elements. The variance provisions shall, at a minimum, provide for the following:

(1) That findings are made by the local jurisdiction which demonstrate that special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program, would result in unwarranted hardship;

(2) That a literal interpretation of this subtitle or the local Critical Area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction;

(3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area;

(4) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property;

(5) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations adopted in this subtitle; and

(6) That applications for a variance will be made in writing to the local approving authority with a copy provided to the Commission.

B. Local jurisdictions may establish additional, more restrictive standards for the granting of variances consistent with the intent and purposes of this subtitle and the approved local Critical Area program, and further, shall establish notification procedures to permit Commission review of findings made in the granting of variances.

C. Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of each local jurisdiction for variances. Variance decisions by local boards of appeal or the local legislative body may be appealed to the circuit court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation, or governmental agency, aggrieved or adversely affected by any decision made under this section, and the Chairman may appeal an action or decision even if the Chairman was not a party to or is not specifically aggrieved by the action or decision.

MARGARET G. MCHALE
Chair

Critical Area Commission for the Chesapeake
and Atlantic Coastal Bays

Errata

COMAR 10.34.32.03

At 38:23 Md. R. 1436 (November 4, 2011), column 2, line 7 from the top:

For: *than 9 years old; and*

Read: *than 9 years old; or*

At 38:23 Md. R. 1436 (November 4, 2011), column 2, line 17 from the top:

For: *parent; or*

Read *parent; and*

[12-06-50]



Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: January 1, 2012, through January 31, 2012.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR §806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR §806.22(f):

Chief Oil & Gas, LLC, Pad ID: Kaufmann Drilling Pad #1, ABR-201201001, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: January 4, 2012.

Cabot Oil & Gas Corporation, Pad ID: MacDowallR P1, ABR-201201002, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: January 4, 2012.

Chief Oil & Gas, LLC, Pad ID: Yoder Drilling Pad #1, ABR-201201003, Leroy Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Redbone, ABR-201201004, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Raimo, ABR-201201005, Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Kathryn, ABR-201201006, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Fox, ABR-201201007, Mehoopany Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Ridenour, ABR-201201008, Cherry Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Chesapeake Appalachia, LLC, Pad ID: Elwell, ABR-201201009, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 4, 2012.

Citrus Energy Corporation, Pad ID: Macialek 1 Pad, ABR-201201010, Washington Township, Wyoming County, Pa.;

Consumptive Use of Up to 5.000 mgd; Approval Date: January 6, 2012.

Southwestern Energy Production Company, Pad ID: FLICKS RUN, ABR-201201011, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: January 9, 2012.

Southwestern Energy Production Company, Pad ID: CHILSON-JENNINGS, ABR-201201012, Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: January 9, 2012.

Chief Oil & Gas, LLC, Pad ID: Bailey Drilling Pad #1, ABR-201201013, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: January 9, 2012.

Pennsylvania General Energy Co. LLC, Pad ID: COP Tract 356 Pad J, ABR-201201014, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: January 10, 2012.

EXCO Resources (PA), Inc., Pad ID: Budman Well Pad, ABR-201201015, Franklin Township, Lycoming County, Pa.; Consumptive Use of Up to 8.000 mgd; Approval Date: January 11, 2012.

Range Resources – Appalachia, LLC, Pad ID: Cornhill C Unit 1H-5H, ABR-201201016, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: January 13, 2012.

Range Resources – Appalachia, LLC, Pad ID: Corson, Eugene 1H-6H, ABR-201201017, Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: January 13, 2012.

Atlas Resources, LLC, Pad ID: Rhodes Well Pad, ABR-201201018, Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 3.600 mgd; Approval Date: January 18, 2012.

Atlas Resources, LLC, Pad ID: Perry Well Pad, ABR-201201019, Mill Creek Township, Lycoming County, Pa.; Consumptive Use of Up to 3.600 mgd; Approval Date: January 18, 2012.

Range Resources – Appalachia, LLC, Pad ID: Ogontz Fishing Club 41H-44H, ABR-201201020, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: January 23, 2012.

SWEPI LP, Pad ID: Jones 276, ABR-201201021, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: January 25, 2012.

SWEPI LP, Pad ID: Tolbert 263, ABR-201201022, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: January 25, 2012.

Carrizo (Marcellus), LLC, Pad ID: Trecoske North Pad, ABR-201201023, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.100 mgd; Approval Date: January 25, 2012.

Carrizo (Marcellus), LLC, Pad ID: Trecoske South Pad, ABR-201201024, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.100 mgd; Approval Date: January 25, 2012.

Southwestern Energy Production Company, Pad ID: HEBDA-VANDERMARK, ABR-201201025, Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: January 27, 2012.

Southwestern Energy Production Company, Pad ID: TONYA WEST, ABR-201201026, New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: January 27, 2012.

Southwestern Energy Production Company, Pad ID: GOOD, ABR-201201027, Jackson and Cogan House Townships, Lycoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: January 27, 2012.

Chesapeake Appalachia, LLC, Pad ID: Burkhart, ABR-201201028, Forks Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 30, 2012.

Chesapeake Appalachia, LLC, Pad ID: Calmitch, ABR-201201029, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 30, 2012.

Carrizo (Marcellus), LLC, Pad ID: EP Bender B (CC-03) Pad (2), ABR-201201030, Reade Township, Cambria County, Pa.; Consumptive Use of Up to 2.100 mgd; Approval Date: January 30, 2012.

SWEPI LP, Pad ID: Barner 709, ABR-201201031, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: January 30, 2012.

Seneca Resources Corporation, Pad ID: DCNR 100 Pad L, ABR-201201032, Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: Warburton, ABR-201201033, Forks Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: SGL289C, ABR-201201034, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: Hemlock Valley, ABR-201201035, Pike Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: Manahan, ABR-201201036, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: Messersmith, ABR-201201037, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chesapeake Appalachia, LLC, Pad ID: Lyon, ABR-201201038, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: January 31, 2012.

Chief Oil & Gas, LLC, Pad ID: Myers Unit Drilling Pad #1, ABR-201201039, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: January 31, 2012.

Chief Oil & Gas, LLC, Pad ID: Hurley Drilling Pad #1, ABR-201201040, Cherry Township, Sullivan County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: January 31, 2012.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: March 9, 2012.

STEPHANIE L. RICHARDSON
Secretary to the Commission
[12-06-48]

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 806, Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Final rule.

SUMMARY: This document contains final rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) to include definitions for new terms and an amended definition; provide for administrative approval of interbasin transfers of flowback and production fluids between drilling pad sites that are isolated from the waters of the basin; provide for administrative approval of out-of-basin transfers of flowback or produced fluids from a Commission approved hydrocarbon development project to an out-of-basin treatment or disposal facility; insert language authorizing renewal of expiring approvals, including Approvals by Rule (ABRs); delete specific references to geologic formations that may be the subject of natural gas development using hydrofracture stimulation and replace with a generic category--"unconventional natural gas development;" broaden the scope of ABRs issued to include hydrocarbon development of any kind utilizing the waters of the basin, not just unconventional natural gas well development; memorialize the current practice of requiring post-hydrofracture reporting; and provide further procedures for the approval of water sources utilized at projects subject to the ABR process.

DATES: Effective April 1, 2012.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street,
Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: 717-238-0423, ext. 306; fax: 717-238-2436; email: rcairo@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's Web site at www.srbc.net.

SUPPLEMENTARY INFORMATION:

Comments and Responses to Proposed Rulemaking

Notice of proposed rulemaking was published in the Federal Register on July 13, 2011; the New York Register on July 27, 2011; the Pennsylvania Bulletin on July 23, 2011; and the Maryland Register on July 29, 2011. The Commission convened public hearings on August 2, 2011, in Harrisburg, Pennsylvania and on August 4, 2011, in Binghamton, New York. Public information meetings were also held on October 25, 2011 in Williamsport, Pennsylvania, and on October 27, 2011, in Camp Hill, Pennsylvania. The original 60-day comment period first established on June 23, 2011, was extended until November 10, 2011, pursuant to an action taken by the Commission on September 15, 2011. Comments on the proposed rulemaking were received at both the hearings and during the comment period. The comments can be divided into two categories: (1) General Comments--These comments are not directed to specific language of the proposed rulemaking, but rather address perceived environmental and policy impacts; and (2) Comments by Section--These comments are directed at the specific language of the proposed rulemaking, often offering further revisions to this language. A summary of both categories of comments and the Commission's responses thereto follows.

General Comments

Comment: The Commission should more clearly explain the scientific basis for the proposed rulemaking. Also, the Commission should conduct a full life cycle cumulative impact study of the basinwide impacts of unconventional natural gas extraction prior to issuing this rulemaking.

Response: The proposed rulemaking is administrative in nature and involves no substantive change in the review standards applied to projects. Therefore, the basis of the rulemaking does not involve the analysis, evaluation or re-evaluation of scientific principals. On the whole, it is an attempt to codify within the rules certain definitions, existing practices and policies, and to establish certain procedures related to implementation of the Commission's regulatory authority.

Comment: The more extensive use of the Approval by Rule (ABR) process in this proposed rulemaking will weaken the Commission's regulatory oversight and will simply make it easier for gas well developers using hydrofracture stimulation methods to withdraw the waters of the basin.

Response: The Commission believes that this comment indicates a basic misunderstanding of the scope of the ABR process and the fact that all withdrawal projects will continue to be docketed and acted on by the full Commission. Through the docketing process, the Commission actively manages the use of the basin's waters and mitigates impacts on surface and ground waters through appropriate conditions limiting use. The ABR process then provides an efficient monitoring system for waters that are consumptively used. The Commission applies the same approval standards to all approvals, no matter the form they take. It exercises continuing jurisdiction and oversight to ensure compliance, and can reopen approvals and issue new orders or conditions if warranted.

Comment: Use of the ABR process to oversee the interbasin transfer of flowback and produced fluids and for the out of basin diversion of such fluids for treatment poses a danger to the waters of the basin due to its toxic content and the potential for spillage. The ABR process also bypasses the usual analysis given to proposed diversions of water.

Response: The proposed rules simply formalize practices that are already in place for the transfer of such fluids. These procedures will provide a net benefit to the basin by encouraging the use and reuse of lesser quality water instead of unimpaired water from streams or ground water sources. Furthermore, unlike the typical diversion of water out of the basin where the consumptive loss occurs and is evaluated in the context of the proposed diversion activity, the consumptive loss in this situation is considered to have occurred at the time of the initial withdrawal from the system, before its first use within the basin and prior to being diverted out of the basin. For into-basin diversions, the existing standards are focused on limiting any introduction of contaminated sources into the waters of the basin. The final rulemaking, as structured, provides that same standard. What it changes is the form of the approval, not the standard that should be applied.

Comment: The Commission places too much reliance on allegedly inadequate state water quality laws relating to wastewater disposal and residual waste. For example, the Commission cannot rely on such state laws and regulations to isolate from the waters of the basin the flowback and production fluids whose interbasin transfer the Commission proposes to approve administratively. Therefore, it is incumbent on the Commission to invoke its own water quality regulatory authority and ensure that wastewater is indeed handled in a manner that isolates it from the waters of the basin.

Response: The Susquehanna River Basin Compact, Public Law 91-575, Section 5.2(b) gives specific emphasis to the primary role of the states in water quality management and control. Member states are already exercising or preparing to exercise their water quality authority with respect to gas drilling activity and are also strengthening their laws and regulations. At this stage, there appears to be no justification for the Commission to assume water quality jurisdiction. As noted in response to a comment below, the Commission is taking steps to replace the term "isolate from the waters of the basin" with language that references the standards and requirements of member jurisdictions.

Comment: The Commission's refusal to promulgate water quality regulations relating to gas well development will allow the non-uniform treatment of water users throughout the basin and therefore not conform to the purposes of the Susquehanna River Basin Compact.

Response: The compact purpose of "uniform treatment of water users" does not require that the Commission exclusively regulate all aspects of water resources in the basin. If state regulations and standards are compatible with the Commission's Comprehensive Plan and do an adequate job of fulfilling the purposes of the plan, the Commission will not attempt to duplicate those regulations and standards. Where it does act, it does so in a manner that provides for uniform treatment of all water users.

Comment: The expanded use of the ABR process lessens the opportunity for public input and scrutiny on project approvals.

Response: The Commission disagrees. The ABR applications must be noticed by applicants and there is an opportunity for interested citizens to comment on these applications before an approval is issued. ABRs are also subject to the same approval standards as docketed approvals, and may be reopened and modified by the Executive Director should unforeseen problems arise. Furthermore, notice of issuance of an ABR is published in the Federal Register and any such approval is subject to appeal pursuant to § 808.2.

Comment: The Commission should not be extending the scope of the ABR program to include other forms of hydrocarbon development without first determining if the ABR program is suitable for these other forms of development.

Response: The ABR process has proven to be a valuable tool for monitoring consumptive use related activity on pad sites. This rulemaking, which as noted above is administrative in nature, would extend the use of this valuable tracking tool to other forms of hydrocarbon development. Water withdrawals by any water user, including that undertaken for use in other forms of hydrocarbon development, will still undergo the full docket approval process, and be subject to all applicable Commission standards and requirements.

Comment: The Commission is a federal agency under the Susquehanna River Basin Compact and is subject to the National Environmental Policy Act (NEPA). It must therefore complete all NEPA requirements in connection with this proposed rulemaking action.

Response: The Commission categorically rejects any suggestion that it is subject to NEPA. This is consistent with the position the Commission has taken on NEPA since the 1980s. Instead of a federal agency, the Commission is a federal-interstate compact agency representing all four of its member jurisdictions. The federal government is only one voting member of the Commission and any action of the Commission requires the vote of a majority of the members. Therefore, the actions of the Commission are not the actions of the federal government, but the joint actions of the member jurisdictions. Also, Congress has specifically exempted the

Commission from the provisions of the federal Administrative Procedures Act (APA). Federal court decisions have taken a consistent view, namely that agencies not subject to the APA are not federal agencies in the conventional sense and are therefore not subject to NEPA or similar laws imposing requirements on "federal agencies."

Comments by Section, Part 806

Section 806.3--Definitions

Comment: The 30-day rule in the proposed definition of flowback means that fluid produced from the well bore from the 31st day until the well is placed in production is neither flowback or production fluid within the definition (unless the well is placed into production during the initial 30-day period).

Response: Agreed. The proposed definition is modified to remove the 30-day reference and to make clear that return flow recovered post-hydrofracture and pre-production is defined as flowback.

Comment: The word "siting" in the definitions of "hydrocarbon development" and "unconventional natural gas development" is inconsistent with the "initiation of construction" standard in the Commission's project review regulations. The regulations specify the "spudding of the well" to be the initiation of a well project.

Response: Agreed. The word "siting" is deleted from this definition to avoid the inconsistency.

Comment: The definition of "project" does not make clear that "unconventional natural gas development" is a subset of "hydrocarbon development activity."

Response: Language is inserted in the definition to clarify that the term is a sub-category of hydrocarbon development.

Comment: Several comments expressed disagreement with the proposed definition of "tophole water," with one suggesting use of Pennsylvania's definition instead and another claiming that the definition is too vague.

Response: The tophole water definition is replaced with a modified version of the Pennsylvania definition. The modification, notably removing the reference to surface water, makes it generally consistent with New York's interpretation of the term and allows for more basinwide consistency.

Section 806.4--Projects Requiring Review and Approval **Paragraphs 806.4(a)(3)(v) & (vi)**

Comment: The phrase "in such manner as to isolate it from the waters of the basin" is too vague and should be replaced with a reference to the actual controls exercised by the member states. Also, because the industry may mix the waters of the basin withdrawn from surface and ground water sources with flowback or production fluids in preparation for hydrofracture use, it is not possible to isolate it from the waters of the basin if read strictly.

Response: The "isolate" terminology is replaced with "provided it is handled, transported and stored in compliance with all standards and requirements of the applicable member jurisdictions." The same language has also been inserted in Paragraph 806.4(a)(3)(vi), which similarly addresses diversions of flowback or production fluids, and is substituted in Paragraph 806.22(f)(11)(iii) for the same reason.

Comment: There is no clear requirement that project sponsors keep track of interbasin transfers of flowback and production fluids.

Response: Language is added to paragraphs 806.4(a)(3)(v) and (vi) reinforcing the requirement that all monitoring and reporting

requirements applicable to the pad site ABR must be met. Similar language is added to paragraph 806.22(f)(11) to meet the same concerns about tracking.

Paragraph 806.4(3)(vi)

Comment: The use of the phrase "the same" implies that each tank load of flowback or production fluid would require separate approval.

Response: The language is replaced with "flowback or production fluids" to remove any uncertainty.

Section 806.13--Submission of Application

Comment: The phrase "Project sponsors of projects subject to review and approval" should properly be changed to read "Sponsors of projects subject to review and approval."

Response: Agreed. The suggested change is incorporated into the final rulemaking.

Section 806.14--Contents of Application

Paragraph 806.14(a)

Comment: With respect to renewal applications, there is no clear indication that they will be made subject to any approval standards.

Response: To remove any ambiguity, and to further clarify the original intent concerning renewal standards, the phrase "shall be subject to the standards set forth in Subpart C--Standards for Review and Approval of this Part" is added to this paragraph.

Section 806.15--Notice of Application

Paragraph 806.15(e)

Comment: The requirement for a newspaper notice in areas where a wastewater discharge source is to be used is unworkable where such water is mixed with other water sources at the initial destination and is then redistributed, oftentimes to other locations not contemplated at the time notice is given.

Response: The word "initially" is added before the phrase "used for natural gas development" to limit this requirement to the initial location(s) where this water is contemplated for use at the time of application.

Section 806.22--Standards for Consumptive Use of Water **Paragraph 806.22(f)(10)**

Comment: Extension of ABR approval terms to 15 years will essentially lessen or weaken the oversight that the Commission exercises over gas drilling activities.

Response: Though the Commission feels that there is a fundamental misunderstanding by some who commented about the ongoing oversight that it exercises over approved projects, and the ability of the Commission to reopen approvals, it is willing to retain the current approval term with the addition of procedures for renewal of ABRs. Therefore, the proposed change is removed from the final rulemaking.

Paragraph 806.22(f)(11)

Comment: Need to make clear that this paragraph applies to the use of sources in addition to those sources approved for use by the project sponsor pursuant to § 806.4.

Response: Wording is added to the beginning of this paragraph to make the suggested clarification.

Paragraph 806.22(f)(11)(i), (ii), and (iv)

Comment: Tophole water, precipitation and storm water collected on the pad site or water obtained from a hydrocarbon storage facility can be contaminated, so there is a need to appropriately limit its use.

Response: Language is added limiting the use of this water to drilling or hydrofracture stimulation only, or in the case of paragraph 806.22(f)(11)(iv), limiting the use to that provided for in the approval.

Paragraph 806.22(f)(11)(iii)

Comment: As defined, flowback and production fluids do not cover all fluids encountered in the drilling process that serve as a water source under current practice. For example, water can be recovered from drilling muds. Also, such fluids can be recovered from production well sites, in addition to drilling pad sites or hydrocarbon water storage facilities. Current Commission policy allows for the reuse of such fluids.

Response: Drilling fluids and formation fluids are added to this paragraph to cover all fluids recovered during the drilling process and used under current practice for hydrofracture stimulation. The term "production well site" is also added to clarify the sites from which such fluids can be recovered. The word "only" is also added to this paragraph to make clear that these fluids may only be used for hydrofracture stimulation. Language is also added clarifying that all such fluids must be handled, transported and stored in compliance with all standards and requirements of the applicable member jurisdiction.

Paragraph 806.22(f)(14)

Comment: The provisions of the proposed paragraph 806.22(f)(13) pertaining to hydrocarbon water storage facilities need to be separated from provisions relating to public water supply and wastewater sources because of the possible application of the terms to third party water purveyors building hydrocarbon water storage facilities that may not be associated with ABRs.

Response: The changes incorporated into the final rule break out a separate paragraph 806.22(f)(14), clarifying the scope and intent, but make no substantive changes to the provisions contained in the proposed rulemaking. The rule is intended to provide for the approval of such facilities (not otherwise associated with an ABR) to provide a mechanism for monitoring, reporting and tracking associated with such facilities, and to allow for the industry to efficiently register such sources for use.

Paragraph 806.22(f)(15)

Comment: The language in paragraphs 806.22(f)(12)(i) and (ii) relating to providing a copy of any registration or source approval to the appropriate agency of a member state, etc., is repetitive.

Response: Language related to registrations and source approvals that is repetitive is removed and restated once in new paragraph 806.22(f)(15).

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

PART 806--REVIEW AND APPROVAL OF PROJECTS

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

Subpart A--General Provisions

2. Amend § 806.3 by adding definitions for "Flowback", "Formation fluids", "Hydrocarbon development", "Hydrocarbon water storage

facility", "Production fluids", "Tophole water", and "Unconventional natural gas development," and revising the definition of "Project" to read as follows:

§ 806.3 Definitions.

* * * * *

Flowback. The return flow of water and formation fluids recovered from the wellbore of an unconventional natural gas or hydrocarbon development well following the release of pressures induced as part of the hydraulic fracture stimulation of a target geologic formation, and until the well is placed into production.

Formation fluids. Fluids in a liquid or gaseous physical state, present within the pore spaces, fractures, faults, vugs, caverns, or any other spaces of formations, whether or not naturally occurring or injected therein.

* * * * *

Hydrocarbon development. Activity associated with the drilling, casing, cementing, stimulation and completion of wells, including but not limited to unconventional natural gas development wells, undertaken for the purpose of extraction of liquid or gaseous hydrocarbons from geologic formations.

Hydrocarbon water storage facility. An engineered barrier or structure, including but not limited to tanks, pits or impoundments, constructed for the purpose of storing water, flowback or production fluids for use in hydrocarbon development.

* * * * *

Production fluids. Water or formation fluids recovered at the wellhead of a producing hydrocarbon well as a by-product of the production activity.

Project. Any work, service, activity, or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation. For purposes of hydrocarbon development activity, including that related to unconventional natural gas development, the project shall be considered to be the drilling pad upon which one or more exploratory or production wells are undertaken, and all water-related appurtenant facilities and activities related thereto.

* * * * *

Tophole water. Water that is brought to the surface while drilling through the strata containing fresh groundwater. Tophole water may contain drill cuttings typical of the formation being penetrated but may not be polluted or contaminated by additives, brine, oil or man induced conditions.

Unconventional natural gas development. Activity associated with the drilling, casing, cementing, stimulation and completion of wells undertaken for the purpose of extraction of gaseous hydrocarbons from low permeability geologic formations utilizing enhanced drilling, stimulation or recovery techniques.

* * * * *

3. In § 806.4, revise paragraph (a)(3) introductory text, add paragraphs (a)(3)(v) and (a)(3)(vi), and revise paragraph (a)(8), as follows:

§ 806.4 Projects requiring review and approval.

(a) * * *

(3) Diversions. Except with respect to agricultural water use projects not subject to the requirements of paragraph (a)(1) of this section, the projects described in paragraphs (a)(3)(i) through (a)(3)(iv) of this section shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.24. The project sponsors of out-of-basin diversions shall also comply with all applicable requirements of this part relating

to consumptive uses and withdrawals. The projects identified in paragraphs (a)(3)(v) and (a)(3)(vi) of this section shall be subject to regulation pursuant to § 806.22(f).

(v) The interbasin diversion of any flowback or production fluids from hydrocarbon development projects from one drilling pad site to another drilling pad site for use in hydrofracture stimulation, provided it is handled, transported and stored in compliance with all standards and requirements of the applicable member jurisdiction, shall not be subject to separate review and approval as a diversion under this paragraph if the generating or receiving pad site is subject to an Approval by Rule issued pursuant to § 806.22(f) and provided all monitoring and reporting requirements applicable to such approval are met.

(vi) The diversion of flowback or production fluids from a hydrocarbon development project for which an Approval by Rule has been issued pursuant to § 806.22(f), to an out-of-basin treatment or disposal facility authorized under separate governmental approval to accept flowback or production fluids, shall not be subject to separate review and approval as a diversion under this paragraph, provided all monitoring and reporting requirements applicable to the Approval by Rule are met and it is handled, transported and stored in compliance with all standards and requirements of the applicable member jurisdiction.

(8) Any unconventional natural gas development project in the basin involving a withdrawal, diversion or consumptive use, regardless of the quantity.

Subpart B--Application Procedure

4. Revise § 806.13 to read as follows:

§ 806.13 Submission of application.

Sponsors of projects subject to review and approval of the Commission under §§ 806.4, 806.5 or 806.6, or project sponsors seeking renewal of an existing approval of the Commission, shall submit an application and applicable fee to the Commission, in accordance with this subpart.

5. In § 806.14, revise paragraph (a) introductory text to read as follows:

§ 806.14 Contents of application.

(a) Except with respect to applications to renew an existing Commission approval, applications shall include, but not be limited to, the following information and, where applicable, shall be submitted on forms and in the manner prescribed by the Commission. Renewal applications shall include such information that the Commission determines to be necessary for the review of same, shall be subject to the standards set forth in Subpart C--Standards for Review and Approval of this part, and shall likewise be submitted on forms and in the manner prescribed by the Commission.

6. In § 806.15, revise paragraphs (d), (e) and (f) and add paragraph (g), as follows:

§ 806.15 Notice of application.

(d) For applications submitted under § 806.22(f)(13) for a public water supply source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area served by the public water supply.

(e) For applications submitted under § 806.22(f)(13) for a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in each area within which the water obtained from such source will initially be used for natural gas development.

(f) For applications submitted under § 806.22(f)(14) for a hydrocarbon water storage facility, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area in which the facility is located.

(g) The project sponsor shall provide the Commission with a copy of the United States Postal Service return receipt for the notifications to agencies of member States, municipalities and county planning agencies required under paragraph (a) of this section. The project sponsor shall also provide certification on a form provided by the Commission that it has published the newspaper notice(s) required by this section and made the landowner notifications as required under paragraph (b) of this section, if applicable. Until these items are provided to the Commission, processing of the application will not proceed. The project sponsor shall maintain all proofs of notice required hereunder for the duration of the approval related to such notices.

Subpart C--Standards for Review and Approval

7. In § 806.22, revise paragraphs (e)(1), (e)(6), (f) introductory text, (f)(1), (f)(4), (f)(6), (f)(8), (f)(9), (f)(11), and (f)(12), and add paragraphs (f)(13), (f)(14) and (f)(15), to read as follows:

§ 806.22 Standards for consumptive uses of water.

(e) ***

(1) Except with respect to projects involving hydrocarbon development subject to the provisions of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule.

(6) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule, or renew an existing approval by rule previously granted hereunder, and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

(f) Approval by rule for consumptive use related to unconventional natural gas and other hydrocarbon development.

(1) Any unconventional natural gas development project, or any hydrocarbon development project subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part, shall be subject to review and approval by the Executive Director under this paragraph (f) regardless of the source or sources of water being used consumptively.

(4) The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and dust control. The foregoing shall apply to all water, including stimulation additives, flowback, drilling fluids, formation fluids and production fluids, utilized by the project. The project sponsor shall also submit a post-hydrofracture report in a form and manner as prescribed by the Commission.

(6) Any flowback or production fluids utilized by the project sponsor for hydrofracture stimulation undertaken at the project shall be separately accounted for, but shall not be included in the daily consumptive use amount calculated for the project, or be subject to the mitigation requirements of § 806.22(b).

(8) The project sponsor shall certify to the Commission that all flowback and production fluids have been re-used or treated and disposed of in accordance with applicable state and federal law.

(9) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule, or renew an existing approval by rule granted hereunder, and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved. The issuance of any approval hereunder shall not be construed to waive or exempt the project sponsor from obtaining Commission approval for any water withdrawals or diversions subject to review pursuant to § 806.4(a). Any sources of water approved pursuant to this section shall be further subject to any approval or authorization required by the member jurisdiction.

* * * * *

(11) In addition to water sources approved for use by the project sponsor pursuant to § 806.4 or this section, for unconventional natural gas development or hydrocarbon development, whichever is applicable, a project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize any of the following water sources at the drilling pad site, subject to such monitoring and reporting requirements as the Commission may prescribe:

(i) Tophole water encountered during the drilling process, provided it is used only for drilling or hydrofracture stimulation.

(ii) Precipitation or stormwater collected on the drilling pad site, provided it is used only for drilling or hydrofracture stimulation.

(iii) Drilling fluids, formation fluids, flowback or production fluids obtained from a drilling pad site, production well site or hydrocarbon water storage facility, provided it is used only for hydrofracture stimulation, and is handled, transported and stored in compliance with all standards and requirements of the applicable member jurisdiction.

(iv) Water obtained from a hydrocarbon water storage facility associated with an approval issued by the Commission pursuant to § 806.4(a) or by the Executive Director pursuant to this section, provided it is used only for the purposes authorized therein, and in compliance with all standards and requirements of the applicable member jurisdiction.

(12) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize a source of water approved by the Commission pursuant to § 806.4(a), or by the Executive Director pursuant to paragraph (f)(14) of this section, and issued to persons other than the project sponsor, provided any such source is approved for use in unconventional natural gas development, or hydrocarbon development, whichever is applicable, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in the manner prescribed by the Commission.

(13) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may also utilize other sources of water, including but not limited to, public water supply or wastewater discharge not otherwise associated with an approval issued by the Commission pursuant to § 806.4(a) or an approval by rule issued pursuant to paragraph (f)(9) of this section, provided such sources are first approved by the Executive Director. Any request for approval shall be submitted on a form and in the manner prescribed by the Commission, shall satisfy the notice requirements set forth in § 806.15, and shall be subject to review pursuant to the standards set forth in subpart C of this part.

(14) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize water obtained from a hydrocarbon water storage facility that is not otherwise associated

with an approval issued by the Commission pursuant to § 806.4(a), or an approval by rule issued pursuant to paragraph (f)(9) of this section, provided such sources are first approved by the Executive Director and are constructed and maintained in compliance with all standards and requirements of the applicable member jurisdiction. The owner or operator of any such facility shall submit a request for approval on a form and in the manner prescribed by the Commission, shall satisfy the notice requirements set forth in § 806.15, and shall be subject to review pursuant to the standards set forth in subpart C of this part.

(15) The project sponsor shall provide a copy of any registration or source approval issued pursuant to this section to the appropriate agency of the applicable member jurisdiction. The project sponsor shall record on a daily basis, and report quarterly on a form and in a manner prescribed by the Commission, the quantity of water obtained from any source registered or approved hereunder. Any source approval issued hereunder shall also be subject to such monitoring and reporting requirements as may be contained in such approval or otherwise required by this part.

Dated: March 6, 2012.

STEPHANIE L. RICHARDSON
Secretary to the Commission

WATER MANAGEMENT ADMINISTRATION

Notice of Tentative Determination General Permit for Discharges from Swimming Pools and Spas, Including Baptismal Fonts

General Discharge Permit No. 12SI (NPDES No. MDG76) applies to discharges from pools and spas, including baptismal fonts to waters of the state in the state of Maryland. The Department proposes to reissue State/NPDES (National Pollution Discharge Elimination System) General Permit for Discharges from Pools and Spas, including Baptismal Fonts with revisions to the previously issued permit (No. 07SI) as summarized below.

The cyanuric acid limit decreased from 200 to 100 mg/L to reflect current industry standards.

Backwash discharges are now subject to turbidity limits of 150 NTUs.

The total silver limit decreased from 3.4 to 3.2 ppb to reflect current water quality standards for acute fresh water. Total silver and total copper limits include limits for discharging to both fresh and salt water.

The Department proposes to change the requirements for transfer of authorization under this permit from 'non-transferable to a person' to 'non-transferable to a change in location'. This ensures the Department is not authorizing a discharge at a new location without appropriate review through submission of a new application.

The required notice of intent (application) now requires more complete information relevant to the permit conditions. Also required is the addition of a site map illustrating discharge locations.

Finally the permit includes several clarifications on the types of eligible discharges authorized by the permit and updates various standard permit conditions. The updated standard permit conditions include, but are not limited to: requirements to obtain coverage under an individual permit, as necessary; termination of coverage under a permit; continuation of an expired general permit; the definitions for super chlorination, potable water, disinfectant, estimated flow, impaired water, and total maximum daily load (TMDL); notice of intent (application) requirements; submission of notifications once

registered under the permit; reporting laboratory performing analysis; facility operation and maintenance; and permit modification.

The Department will hold a public hearing concerning the tentative determination on Thursday, **April 26, 2012, at 10 a.m.** in the Terra Conference Room at MDE, 1800 Washington Blvd, Baltimore, MD 21230.

Any hearing impaired person may request an interpreter at the hearing by contacting Tyrone Hill, Office of Fair Practices at (410) 537-3964 at least ten working days prior to the scheduled hearing date. TTY users should contact the Maryland Relay Service at 1 800 201-7165.

The draft permit is available on MDE's website (www.mde.state.md.us) and can be found at the Wastewater Permits website <http://www.mde.state.md.us/waterpermits> under "Water Applications and Other Forms" then "Discharges from Swimming Pools...", or by searching "[pools.aspx](#)" in the right hand corner search engine through the comment period. Any questions regarding this tentative determination, including the draft permit and fact sheet should be directed to Edward Gertler at the Maryland Department of the Environment, Water Management Administration, at egertler@mde.state.md.us, by telephone at 410-537-3323 between the hours of 8 a.m. and 5 p.m., Monday through Friday. Copies of the document may be obtained at a cost of \$0.36 per page. Written comments concerning the tentative determination will also be considered in the preparation of a final determination if received by Edward Gertler at the above address, on or before Friday, May 4, 2012.

[12-06-47]

DEPARTMENT OF STATE POLICE

HANDGUN ROSTER BOARD

Proposed Additions to Handgun Roster and Notice of Right to Object or Petition

The following is a list of handguns that the Handgun Roster Board proposes to add to the official handgun roster. Under Public Safety Article, §5-405, Annotated Code of Maryland, and COMAR 29.03.03.13 and .14, any person may object to the placement of any of those handguns on the Handgun Roster. Objections must be filed within 30 days after **March 23, 2012**. In addition, any person may petition for the placement of an additional handgun on the Handgun Roster. Forms for objections or petitions may be obtained from: Marlene Jenkins, Administrator, Handgun Roster Board, 1201 Reisterstown Road, Pikesville, Maryland 21208.

Kimber	Solo CDP		9mm
Kriss, USA, Inc	Vector-SDP		.45 ACP
Para USA, Inc.	18.9 Limited	SX 189S, SX 189SR	9mm
Rock Island Armory	XT-22		.22 LR
Sig Sauer/Sigarms Inc.	P 290 Sub-Compact		9mm
Smith & Wesson	43-C		.22LR
Smith & Wesson	M&P 22		.22 LR
Springfield Armory/Inc.	XDm-40	5.25	40 S&W
Sturm Ruger	MKIII Competition Target	10155	.22 LR
Sturm Ruger	SP-101	5771	.357 Mag
Sturm Ruger	LCR	5450	.22 LR
Sturm Ruger	SR 22	3600	.22 LR
Sturm Ruger	LC9-LM	3206	9mm
Taurus	PT-132	132BP, 132SSP	.32 ACP
Volkman Precision	CS Combat Special		.45 ACP

[12-06-46]

<i>Manufacturer</i>	<i>Model Name</i>	<i>Model Number</i>	<i>Caliber</i>
Bersa	BP9CC		9mm
Charter Arms/CHARCO INC.	Pit Bull	74020	.40 S&W
Colt/Colt's Mfg. Co., Inc.	Government Model 1911	02991	.38 Super
FMK	9C 1-Gen 2		9mm
FN Herstal	FNS-9		9mm
I.W.I. Israeli Weapon (Magnum Research)	Baby Desert Eagle II	BE9915R	9mm

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: March 28, 2012, 8:30 a.m. — 5 p.m.
Place: Maryland State Arts Council, 175 W. Ostend St., Ste. E, Baltimore, MD
Contact: Mr. Cliff Murphy (410) 767-6450
 [12-06-11]

MARYLAND STATE ARTS COUNCIL

Subject: Public Meeting
Date and Time: April 26, 2012, 8:30 — 9 a.m.
Place: Maryland State Arts Council, Baltimore, MD
Add'l. Info: Maryland Commission on Public Art
Contact: Susie Leong (410) 767-6544
 [12-06-16]

BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

Subject: Public Meeting on Regulations
Date and Time: April 12, 2012, 9:30 — 10 a.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 108/109, Baltimore, MD
Add'l. Info: The Board of Chiropractic and Massage Therapy Examiners Massage Regulations Subcommittee will hold an open session on April 12, 2012, at 9:30 a.m. (location listed above). The Subcommittee is tasked with reviewing COMAR 10.43.15 and .20 (MST Recordkeeping and MST Continuing Education). This specific session will review MST CPR requirements. The general public is welcome. Space is limited to approximately 50 individuals. Organizations and schools are requested to consider representatives to present any comments or inquiries. For questions, please call the Deputy Director, Ms. Adrienne Congo, at (410) 764-2965.
Contact: Maria Ware (410) 764-5902
 [12-06-49]

BOARD OF CHIROPRACTIC AND MASSAGE THERAPY EXAMINERS

Subject: Public Meeting
Date and Time: April 12, 2012, 10 a.m. — 1 p.m.
Place: Dept. of Health and Mental Hygiene, 4201 Patterson Ave., Rm. 108/109, Baltimore, MD
Contact: Maria Ware (410) 764-5902
 [12-06-13]

CONSUMER COUNCIL OF MARYLAND

Subject: Public Meeting
Date and Time: April 13, 2012, 9:15 — 11 a.m.
Place: 200 St. Paul Pl., 16th Fl., Baltimore, MD
Contact: Stephanie A. Hodge (410) 576-6557
 [12-06-37]

CORRECTIONAL TRAINING COMMISSION

Subject: Public Meeting
Date and Time: April 24, 2012, 10 a.m. — 12 p.m.
Place: Public Safety Education and Training Center, 6852 4th St., Sykesville, MD
Contact: Thomas C. Smith (410) 875-3605
 [12-06-20]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: May 14, 2012, 3 — 5 p.m.
Place: Baltimore Co. Loch Raven Library, Baltimore, MD
Contact: Debra Arnold (410) 821-2852
 [12-06-04]

CRIMINAL JUSTICE INFORMATION ADVISORY BOARD

Subject: Public Hearing
Date and Time: April 23, 2012, 1 — 3 p.m.
Place: Judicial Training Center, 2009-D Commerce Park Dr., Annapolis, MD
Contact: Robyn Lyles (410) 585-3185
 [12-06-30]

PROFESSIONAL STANDARDS AND TEACHER EDUCATION BOARD

Subject: Public Meeting
Date and Time: April 5, 2012, 9 a.m. — 12 p.m.
Place: 200 W. Baltimore St., Baltimore, MD
Contact: Madeline Koum (410) 767-0385
 [12-06-10]

DEPARTMENT OF EDUCATION/DIVISION OF REHABILITATION SERVICES

Subject: Public Meeting
Date and Time: March 28, 2012, 2 — 3:30 p.m.
Place: Deafnet, 551 Jefferson St., Hagerstown, MD
Add'l. Info: Topic Discussions: Improving DORS Vocational Rehabilitation (VR) Services; DORS Budget & Capacity Issues; Transitioning and Autism and Asperger's VR Services; Deaf and Deaf-Blind VR Services; and the 2013 State Plan for VR Services. Sign language interpreters and an assisted listening system will be available at the public meetings. After each meeting, DORS staff and MSRC members will be available to talk about personal comments or concerns about services.
 Additional contact information: 1-888-554-0334 (toll free); 410-554-9411 (TTY); kschultz@dors.state.md.us.

Directions can be found at <http://www.dors.state.md.us/DORS/AboutDORS/meetings>

Contact: Kimberlee C. Schultz (410) 554-9435

[12-06-32]

DEPARTMENT OF EDUCATION/DIVISION OF REHABILITATION SERVICES

Subject: Public Meeting
Date and Time: March 29, 2012, 3:30 — 5 p.m.
Place: Workforce & Technology Center (WTC), 2301 Argonne Drive, Baltimore, MD
Add'l. Info: Topic Discussions: Improving DORS Vocational Rehabilitation (VR) Services; DORS Budget & Capacity Issues; Transitioning and Autism and Asperger's VR Services; Deaf and Deaf-Blind VR Services; and the 2013 State Plan for VR

Services. Sign language interpreters and an assisted listening system will be available at the public meetings. After each meeting, DORS staff and MSRC members will be available to talk about personal comments or concerns about services.

Additional contact information: 1-888-554-0334 (toll free); 410-554-9411 (TTY); kschultz@dors.state.md.us.

Directions can be found at <http://www.dors.state.md.us/DORS/About/DORS/meetings>

Contact: Kimberlee C. Schultz (410) 554-9435

[12-06-33]

DEPARTMENT OF EDUCATION/DIVISION OF REHABILITATION SERVICES

Subject: Public Meeting

Date and Time: April 2, 2012, 10 — 11 a.m.

Place: Statewide Teleconference; Call Toll Free 1-866-823-0218, MD

Add'l. Info: Topic Discussions: Improving DORS Vocational Rehabilitation (VR) Services; DORS Budget & Capacity Issues; Transitioning and Autism and Aspergers VR Services; Deaf and Deaf-Blind VR Services; and the 2013 State Plan for VR Services. Sign language interpreters and an assisted listening system will be available at the public meetings. After each meeting, DORS staff and MSRC members will be available to talk about personal comments or concerns about services. Teleconference space is limited; call 410-554-9435 for reservations. For questions call Kimberlee Schultz 410-554-9435; 1-888-554-0334 (toll free); 410-554-9411 (TTY); kschultz@dors.state.md.us

Contact: Kimberlee C. Schultz (410) 554-9435

[12-06-35]

DEPARTMENT OF EDUCATION/DIVISION OF REHABILITATION SERVICES

Subject: Public Meeting

Date and Time: April 5, 2012, 2 — 3:30 p.m.

Place: The Chesapeake Center, 713 Dover Rd., Easton, MD

Add'l. Info: Topic Discussions: Improving DORS Vocational Rehabilitation (VR) Services; DORS Budget & Capacity Issues; Transitioning and Autism and Asperger's VR Services; Deaf and Deaf-Blind VR Services; and the 2013 State Plan for VR Services. Sign language interpreters and an assisted listening system will be available at the public meetings. After each meeting, DORS staff and MSRC members will be

available to talk about personal comments or concerns about services.

Additional contact information: 1-888-554-0334 (toll free); 410-554-9411 (TTY); kschultz@dors.state.md.us.

Directions can be found at <http://www.dors.state.md.us/DORS/About/DORS/meetings>

Contact: Kimberlee C. Schultz (410) 554-9435

[12-06-34]

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

Subject: Public Meeting

Date and Time: April 5, 2012, 1 — 3 p.m.

Place: 653 W. Pratt St., Ste. 212, Baltimore, MD

Add'l. Info: The State Emergency Medical Services Advisory Council (SEMSAC) meets regularly the 1st Thursday of each month

Contact: Leandrea Gilliam (410) 706-4449

[12-06-24]

EMERGENCY MEDICAL SERVICES BOARD

Subject: Public Meeting

Date and Time: April 10, 2012, 9 — 11 a.m.; part of the meeting may include a closed session

Place: 653 W. Pratt St., Ste 212, Baltimore, MD

Add'l. Info: The State Emergency Medical Services Board (EMS Board) meets regularly on the 2nd Tuesday of each month.

Contact: Leandrea Gilliam (410) 706-4449

[12-06-25]

BOARD FOR PROFESSIONAL ENGINEERS

Subject: Public Meeting

Date and Time: April 12, 2012, 9 a.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6262

[12-06-41]

FIRE PREVENTION COMMISSION

Subject: Public Meeting

Date and Time: April 19, 2012, 9:30 a.m.

Place: Laurel Municipal Bldg., 8103 Sandy Spring Rd., Laurel, MD

Contact: Heidi Ritchie (877) 890-0199

[12-06-27]

HALL OF RECORDS COMMISSION

Subject: Public Meeting

Date and Time: April 23, 2012, 12 p.m. — 2 p.m.

Place: Edward C. Papenfuss State Archives Bldg., 350 Rowe Blvd., Annapolis, MD

Contact: Rachel Frazier (410) 260-6401
[12-06-26]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/OFFICE OF HEALTH SERVICES

Subject: Notice to MCO Applicants

Add'l. Info: March 7, 2012

Dear Interested Parties:

In anticipation of the major changes that will be taking place in Medicaid starting in 2014, the Department of Health and Mental Hygiene (Department) has received many inquiries from interested parties on how to become a HealthChoice Managed Care Organization (MCO). Under COMAR 10.09.64, any entity that meets all of the regulatory requirements for the HealthChoice Program can be approved as an MCO. However, the application and review process is extensive and laborious for both the applicant and the Department and may take a full 12 months to accomplish. Therefore, the Department is establishing the following timeframes in order to be able to allow sufficient time to process any forthcoming applications and have new MCOs enrolled by January 1, 2014.

Letter of Intent to Submit an Application — April 30, 2012

Anyone who plans to apply to be an MCO and be enrolled by 1/1/14 must submit a letter of intent to the Department no later than April 30, 2012. This letter should be sent to Glendora Finch, Chief of the Division of HealthChoice Management and Quality Assurance, Department of Health and Mental Hygiene, 201 West Preston Street, Room 208, Baltimore, Maryland 21201

Initial Application Submission — July 31, 2012

A complete initial application must be submitted to the Department by July 31, 2012. A complete application is defined as an application that has at least 80% of all information/ data required to process the application. Those applications that are not deemed to be at least 80% complete will be returned to the applicant as unacceptable. Acceptable applications will be reviewed for completeness and applicants will be notified by letter of any missing elements that must be submitted. Applicants will have 30 calendar days from the receipt of the notification to submit all missing

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information or the applications will be denied as incomplete and returned to the applicant.

It is anticipated that any acceptable application that is received by July 31, 2012 will have its review completed by the Department by July 1, 2013. Any questions about this information should be sent to Glendora Finch at finchg@dhmh.state.md.us or at 410-767-1740.

Diane Herr, Director
HealthChoice and Acute
Care Administration

Contact: Glendora Finch (410) 767-1740
[12-06-39]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE/PHARMACY AND THERAPEUTICS COMMITTEE

Subject: Public Meeting

Date and Time: May 10, 2012, 9 a.m. — 1 p.m.

Place: Conference Center at Sheppard Pratt, Stulman Auditorium, 6501 N. Charles St., Towson, MD

Add'l. Info: Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy and Therapeutics Committee (Preferred Drug List). Classes of drugs to be reviewed are posted on the Maryland Pharmacy program website at http://www.dhmf.state.md.us/mma/mpap/pt_committee.html. See website for agenda, speaker registration, restrictions, and driving directions. Submit questions to MarylandPDLQuestions@dhmf.state.md.us.

Contact: Alex Taylor (410) 767-5878
[12-06-14]

BOARD OF HEATING, VENTILATION, AIR- CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting

Date and Time: April 11, 2012, 9:30 a.m. — 12 p.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Steve Smitson (410) 230-6136
[12-06-08]

HOME IMPROVEMENT COMMISSION

Subject: Public Meeting

Date and Time: April 5, 2012, 10 a.m. — 12 p.m.

Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD

Contact: Steven Smitson (410) 230-6169
[12-06-02]

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subject: Public Hearing

Date and Time: April 5, 2012, 1:30 — 2:30 p.m.

Place: Maryland Dept. of Housing and Community Development, 100 Community Pl., CDA Conf. Rm. #4.402, Crownsville, MD

Add'l. Info: A public hearing will be held to solicit comments on DHCD's plan on Federal Program Year 2012 Weatherization Assistance Program State Plan Application to be submitted to the U.S. Department of Energy (DOE). The State Plan Application describes the Department's intention to utilize the funding. Copies of the proposed State Plan can be viewed at any of the current Weatherization Assistance Program service providers.

Written comments for the State Plan must be submitted not later than 4:30 p.m., April 10, 2012, to James J. McAteer, Program Manager, at the above address.

Contact: Jim McAteer (410) 514-7489
[12-06-31]

COMMISSION ON KIDNEY DISEASE

Subject: Public Meeting

Date and Time: April 26, 2012, 2 — 4 p.m.

Place: 4201 Patterson Ave., Rm 108/109, Baltimore, MD

Add'l. Info: A portion of this meeting may be closed for executive session

Contact: Eva Schwartz (410) 764-4799
[12-06-06]

BOARD FOR PROFESSIONAL LAND SURVEYORS

Subject: Public Meeting

Date and Time: April 4, 2012, 10 a.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6262
[12-06-40]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: April 19, 2012, 1 p.m.

Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD

Contact: Valerie Wooding (410) 764-3460
[12-06-29]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting

Date and Time: March 28, 2012, 8:30 a.m. — 5 p.m.

Place: Harry R. Hughes Dept. of Transportation Bldg., 7201 Corporate Center Dr., Hanover, MD

Contact: Pam Gregory (410) 865-1253
[12-06-05]

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Subject: Public Meeting

Date and Time: April 11, 2012, 9:30 p.m.

Place: 4201 Patterson Ave., Rm. 109, Baltimore, MD

Contact: Patricia Hannigan (410) 764-4750
[12-06-15]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting

Date and Time: April 20, 2012, 8:30 a.m. — 2 p.m.

Place: Spring Grove Hospital Center, 55 Wade Ave., Catonsville, MD

Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46, amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.

Contact: Marilyn Pinkney (410) 402-8556
[12-06-12]

BOARD OF PILOTS

Subject: Public Meeting

Date and Time: April 13, 2012, 10:30 a.m.

Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD

Contact: Pamela J. Edwards (410) 230-6262
[12-06-42]

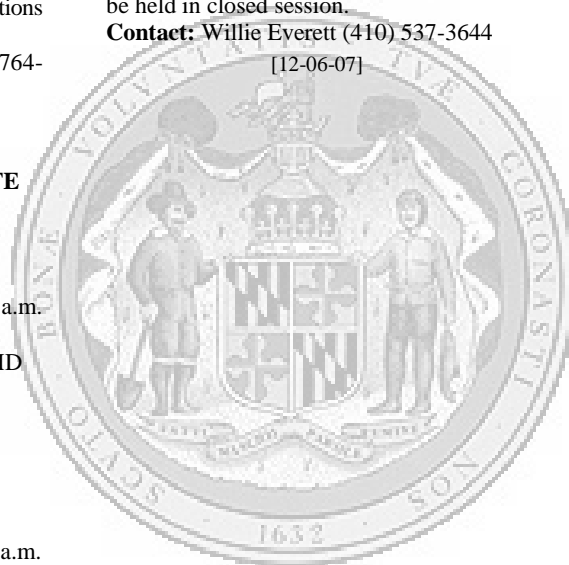
BOARD OF PLUMBING

Subject: Public Meeting

Date and Time: April 19, 2012, 10 a.m. — 12:30 p.m.

Place: 500 N. Calvert St., Rm. 302, Baltimore, MD

Contact: Brenda Clark (410) 230-6164
[12-06-09]

POLICE TRAINING COMMISSION**Subject:** Public Meeting**Date and Time:** April 17, 2012, 2 — 5 p.m.**Place:** Public Safety Education and Training Center, 6852 4th St., Sykesville, MD**Contact:** Thomas C. Smith (410) 875-3605
[12-06-19]**BOARD OF EXAMINERS OF
PSYCHOLOGISTS****Subject:** Public Hearing**Date and Time:** April 13, 2012, 9 a.m. — 1 p.m.**Place:** 4201 Patterson Ave., Conf. Rm. 110, Baltimore, MD**Add'l. Info:** Sign language interpreters/other appropriate accommodations for qualified individuals with disabilities will be provided upon request. Proposed changes to regulations may be discussed.**Contact:** Dorothy Kutcherman (410) 764-4703
[12-06-28]**COMMISSION OF REAL ESTATE
APPRAISERS AND HOME
INSPECTORS****Subject:** Public Meeting**Date and Time:** April 10, 2012, 10:30 a.m. — 12 p.m.**Place:** 500 N. Calvert St., Baltimore, MD**Contact:** Patti Schott (410) 230-6165
[12-06-03]**REAL ESTATE COMMISSION****Subject:** Public Meeting**Date and Time:** April 18, 2012, 10:30 a.m.**Place:** Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD**Contact:** Patricia Hannon (410) 230-6199
[12-06-21]**REAL ESTATE COMMISSION****Subject:** Public Hearing**Date and Time:** April 18, 2012, 12:30 p.m.**Place:** Dept. of Labor, Licensing, and Regulation, 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD**Contact:** Patricia Hannon (410) 230-6199
[12-06-22]**BOARD OF SOCIAL WORK
EXAMINERS****Subject:** Public Hearing**Date and Time:** April 13, 2012, 11 a.m. — 3 p.m.**Place:** 4201 Patterson Ave., Rm. 109, Baltimore, MD**Add'l. Info:** The Board may discuss/vote on proposed regulations. A portion of the meeting may be held in closed session.**Contact:** James T. Merrow (410) 764-4788
[12-06-23]**BOARD OF WELL DRILLERS****Subject:** Public Meeting**Date and Time:** April 25, 2012, 9 a.m. — 4:30 p.m.**Place:** MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD**Add'l. Info:** A portion of this meeting may be held in closed session.**Contact:** Willie Everett (410) 537-3644
[12-06-07]

COMAR PDF ORDER FORM

Titles		Agency Name	Price ¹	Subscription ²	Quantity	Total
Complete set of COMAR PDF format			\$1,000	\$500	_____	_____
Title 01	Executive Department		\$35	\$24	_____	_____
Title 02	Office of the Attorney General		\$22	\$13	_____	_____
Title 03	Comptroller of the Treasury		\$30	\$20	_____	_____
Title 04	General Services		\$16	\$10	_____	_____
Title 05	Housing and Community Development		\$78	\$50	_____	_____
Title 07	Human Resources		\$80	\$53	_____	_____
Title 08	Natural Resources		\$78	\$51	_____	_____
Title 09	Labor, Licensing and Regulation		\$89	\$60	_____	_____
Title 10	Health & Mental Hygiene (All parts) **		\$272	\$180	_____	_____
Title 10	Part 1 **		\$48	\$32	_____	_____
Title 10	Part 2 **		\$75	\$50	_____	_____
Title 10	Part 3 **		\$75	\$50	_____	_____
Title 10	Part 4 **		\$50	\$35	_____	_____
Title 10	Part 5 **		\$69	\$50	_____	_____
Title 11	Transportation (All parts) **		\$106	\$75	_____	_____
Title 11	Part 1 (Transportation) **		\$42	\$25	_____	_____
Title 11	Parts 2 & 3 (MVA)**		\$74	\$50	_____	_____
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Department of Health and Mental Hygiene: Part & Subtitles

#### Part 1

- 01 Procedures
- 02 Division of Reimbursements
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- 04 Fiscal
- 05 Freestanding Ambulatory Care Facilities
- 06 Diseases
- 07 Hospitals
- 08 Health Facilities Grants

#### Part 2

- 09 Medical Care Programs

#### Part 3

- 10 Laboratories
- 11 Maternal and Child Health
- 12 Adult Health
- 13 Drugs
- 14 Cancer Control
- 15 Food
- 16 Housing
- 17 Sanitation
- 18 Human Immunodeficiency Virus (HIV) Infection and  
Acquired Immunodeficiency Syndrome (AIDS)
- 19 Dangerous Devices and Substances
- 20 Kidney Disease Program
- 21 Mental Hygiene Regulations
- 22 Developmental Disabilities

#### Part 4

- 23 Advance Directive Registry
- 24 Maryland Health Care Commission
- 25 Maryland Health Care Commission
- 26 Board of Acupuncture
- 27 Board of Nursing
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- 29 Board of Morticians and Funeral Directors
- 30 Commission on Kidney Disease
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- 32 Board of Physicians
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- 34 Board of Pharmacy
- 35 Postmortem Examiners Commission
- 36 Board of Examiners of Psychologists

#### Part 5

- 37 Health Services Cost Review Commission
- 38 Board of Physical Therapy Examiners
- 39 Board of Nursing – Certified Nursing Assistants
- 40 Board of Podiatric Medical Examiners
- 41 Board of Examiners for Audiologists, Hearing Aid  
Dispensers, and Speech-Language Pathologists
- 42 Board of Social Work Examiners
- 43 Board of Chiropractic Examiners
- 44 Board of Dental Examiners
- 45 Maryland Community Health Resources Commission
- 46 Board of Occupational Therapy Practice
- 47 Alcohol and Drug Abuse Administration
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- 49 State Anatomy Board
- 50 Tissue Banks
- 51 Vacant
- 52 Preventive Medicine
- 53 Board of Nursing—Electrology Practice Committee
- 54 Special Supplemental Nutrition Program for Women,  
Infants, and Children (WIC)
- 55 State Board of Spinal Cord Injury Research
- 56 Board of Dietetic Practice
- 57 Board for Certification of Residential Child Care Program  
Professionals
- 58 Board of Professional Counselors and Therapists
- 59 Catastrophic Health Emergencies

### Title 11

Department of Transportation – Volume & Subtitles

#### Volume 1

- 01 Office of the Secretary
  - 02 Transportation Service Human Resources System
  - 03 Maryland Aviation Administration
  - 04 State Highway Administration
  - 05 Maryland Port Administration
  - 06 Mass Transit Administration
  - 07 Maryland Transportation Authority
  - 08 Vacant
  - 09 Vacant
  - 10 Vacant
- #### Volume 2 and Volume 3
- 11 Motor Vehicle Administration – Administrative Procedures
  - 12 MVA – Licensing of Businesses and Occupations
  - 13 MVA – Vehicle Equipment
  - 14 MVA – Vehicle Inspections
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  - 16 MVA – Vehicle Operations
  - 17 MVA – Driver Licensing and Identification Documents
  - 18 MVA – Financial Responsibility Requirements
  - 19 MVA – School Vehicles
  - 20 MVA – Motorcycle Safety Program
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  - 23 MVA – Drivers' Schools, Instructors, Driver Education Program

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- 02 Occupational, Industrial, and Residential Hazards
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Planning and Funding
- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
- 05 Board of Well Drillers
- 06 Waterworks and Waste Systems Operators
- 07 Board of Environmental Sanitarians

#### Part 2

- 08 Water Pollution
- 09 Maryland CO<sub>2</sub> Budget Trading Program
- 10 Oil Pollution and Tank Management
- 11 Air Quality
- 12 Radiation Management

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- 13 Disposal of Controlled Hazardous Substances
- 14 Hazardous Substance Response Plan
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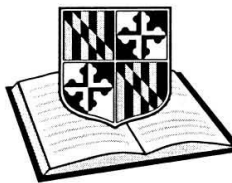
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